California Journal

THE MONTHLY REPORT OF STATE GOVERNMENT AND POLITICS

72's tax reform = 73's fiscal fiasco

August 1973

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a california journal...

It is a great pleasure to announce the appointment of Ed Salzman as Editor of the California Journal. *Salzman has been Capitol Bureau Chief and principal Sunday editorial page columnist for the* Oakland Tribune *for the past 10 years. In the following column he outlines some personal thoughts for a new direction in state government based on his years of observation at the Capitol.*

THOMAS R. HOEBER
Publisher

A plan to improve public regard for legislators

Simultaneously, California legislators are rated by political scientists as the best in the nation and by their own constituents as among the least reputable elements in society. How can this apparent contradiction be explained?

The answer is that the California lawmaker has evolved to a hybrid stage that makes him better than what any other state can offer, but not nearly prestigious enough to warrant the confidence of those who elected him. Our representatives in Sacramento no longer are "good old boys" who come to the Capitol for a couple of months a year to tidy up matters and then return to the mainstream of community life. Nor have they become full-time statesmen devoid of mundane interests.

It would hardly be practical to suggest that the Legislature take a giant step backward to the days of short sessions and lobbyist domination, to the era of the "citizen-legislator" extolled in this space last month by a lobbyist of long experience. But how about taking a long leap forward by treating our legislators less like a crowd of white-collar workers and more like corporation presidents — and expecting them to perform at that lofty level?

Instead of the $19,200 lawmakers now get annually as public servants, why not pay them $40,000 to $50,000 as the policymakers for the second most important organization in American society, after the federal government? True, the salary level has more than tripled over the past seven years, from a base of $6,000 before 1967, and it will rise to $21,120 on December 4, 1974. True, legislators also carry away a large satchel of fringe benefits worth at least another $15,000 or so a year. True, we don't see any state representatives crying poormouth and giving up their seats for lack of income. Also true, California government probably deserves its ranking as best in the nation, and lawmakers do not warrant being classed with insurance salesmen in public esteem. Still, there is a long way to go.

* * *

What good would a 150 percent pay boost do? It would make it clear that Californians expect their legislators to perform as full-time professionals charged solely with attending to public business. No more lucrative law practices on the side. No more dependence on lobbyists to provide food and drink. No more conflict-of-interest revelations. Lawmakers would find tight strings attached to their plumper paychecks:

- All outside business activities would be banned.
- Full disclosure of economic interests would be required.
- Nothing of value could be accepted from a lobbyist or other individual attempting to influence the course of legislation. (At $50,000 a year, a legislator ought to be expected to provide his own refreshments.)
- Tight lids would be placed on campaign contributions — perhaps a limit of $100 a year from any one source. (The cost of seeking legislative office has become outrageous, and a law of supply and demand is responsible. The special interests have been willing to supply more and more money for their favorite candidates, and more and more is demanded.)

* * *

Elevating public confidence in the Legislature also would require a couple of procedural changes so that the public will stop reading about vital actions taken behind closed doors. Compared with other states, the California legislature operates in a fish bowl, with most of its work done in public view and an ample opportunity for citizens to participate at the committee level. However, some of the state's key decisions are still made out of sight of press and public.

Every year, the Legislature's most important job — formulation of the final version of the state budget — is accomplished by six lawmakers meeting privately in a so-called free conference committee. The word "free" is significant because it means that these three Senators and three Assemblymen can totally rewrite the budget enacted by each house after months of committee work. The justification for the closed-door policy is that the necessary horse-trading cannot be accomplished in public view. But those who have spent much time in the Capitol have watched many a lawmaker wheel and deal in open committee meetings and even before a microphone on the Senate or Assembly floor — and without apparent adverse effect.

The case for opening party caucuses to the public is not nearly so clear, however. All caucuses are private under the theory that it makes little sense to plot party strategy within earshot of the opposition. But caucus action that binds members to vote yes or no on a particular bill can have the effect of deciding the fate of the measure beyond public view. Isn't it possible, somehow, to balance partisan competition with the recognition that a basic tenet of republican government — the responsibility of each representative to vote his own conscience — is violated when a binding party-line stand is taken?

Should these admittedly utopian proposals ever be adopted, the California Legislature would then deserve high ratings indeed among our society's institutions.

ED SALZMAN
Editor

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Legislators return to dozens of unresolved major issues

While most taxpayers will be closely watching efforts to rescind the one-cent increase in the sales tax, legislators will be working on dozens of other unresolved major issues during their "summer session", which began August 6th and is scheduled to end September 14th.

Here is a rundown of some of the bills that will be debated during the next few weeks:

Death penalty. A third hearing on nine bills restoring capital punishment in California has been set for August 14th by the Assembly Criminal Justice Committee. Of the nine, only the proposal by Senator George Deukmejian has even moved past its first committee. The Deukmejian bill, SB 450, which has cleared the Senate, would make the death penalty mandatory for killing a police officer and for several other offenses.

Public Employees. The Assembly Ways and Means Committee will hear Speaker Bob Moretti's AB 1243, which would grant public workers full collective bargaining benefits, including the right to strike. The Senate has approved SB 32 by Senator Ralph Dills along the same line but stopping short of the right to strike. That measure will be heard by the Assembly Committee on Employment and Public Employees. The Senate has also approved SB 400 by Senator George Moscone establishing new collective bargaining rights for teachers but not the right to strike. (See *CJ*, May 1973, p. 148.)

Local Government. The Reagan administration and Assemblyman John T. Knox are attempting to arrive at a compromise on his bill, AB 2008, to clarify the local government provisions of the Reagan-Moretti tax plan (SB 90, 1972 session). The measure has passed the Assembly and will be heard by the Senate Revenue and Taxation Committee.

Auto insurance. A variety of so-called no-fault automobile insurance plans will be considered by the Senate Judiciary Committee. Two prime contenders are AB 50 by Assemblyman Jack Fenton and SB 429 by Senator James R. Mills. (See no-fault article on page 266 for details.)

Forestry. Despite the 11th-hour opposition of the Planning and Conservation League, most major issues appear to have been resolved in the legislative effort to place permanent restrictions on the cutting of timber on privately owned property. The main hangup has been a pride of authorship contest between Assemblyman Edwin L. Z'berg and Senator John A. Nejedly. The Nejedly version, SB 529, is in Z'berg's Assembly Natural Resources and Conservation Committee, while Z'berg's measure has moved to the Senate Finance Committee. (For background, see *CJ*, November 1972, p. 328).

Welfare. The Reagan administration has decided to exercise an option under the new federal welfare act (HR 1) and turn over to the federal government control of programs for the aged, blind, and disabled. A supplemental state funding bill is needed to assure that recipients do not get reduced grants. The administration is backing AB 428 by Assemblyman Dixon Arnett, which remains in its original committee. Assemblyman John L. Burton has succeeded in moving his rival bill, AB 18, through the Assembly.

Farm workers. Fenton's AB 255, granting unemployment insurance benefits to farm workers, has cleared the Assembly, and will be heard by the Senate Industrial Relations Committee.

Energy. A comprehensive energy resources bill, AB 1575 sponsored by conservationists and authored by Assemblyman Charles Warren of Los Angeles, has been sent to the Assembly Revenue and Taxation Committee after approval by two other lower house committees. (See *CJ's* special report on energy in the June issue.)

Transit. On August 7th, the Senate Public Utilities and Corporations Committee is scheduled to hear an Assembly-approved proposal, AB 24 by Assemblyman Carlos Bee, to replace the present 12-member appointed board of the Bay Area Rapid Transit District with an elected nine-member board. The same committee will consider AB 1727 by Assemblyman Joe A. Gonsalves to reduce from 60 percent to a simple majority the margin required to pass a bond issue in the Southern California Rapid Transit District.

Transportation. AB 1846 by Assemblyman Ken Meade to establish a priority system of allocating gasoline and diesel fuel in times of shortage has cleared the Assembly Transportation Committee and awaits a vote in Ways and Means.

Landlord-Tenant. Backed by the National Conference of Commissioners on Uniform State Laws, Warren will attempt to start moving his AB 1202, designed to protect landlords and tenants from taking advantage of one another. The bill is in the Assembly Judiciary Committee. (For background on landlord-tenant relations, see *CJ*, February 1973, p. 50).

Regional Government. Knox will try again to create a powerful San Francisco Bay Area regional authority with the right to veto local-government actions that interfere with regional planning. His AB 2040 awaits debate on the Assembly floor. Knox has indicated that he will not try to move the measure through the Senate until 1974.

Corrections. The Reagan administration's plan to shift the responsibility for more prisoners to local government, SB 391 by Senator Craig Biddle, is before the Senate Finance Committee. The concept of decentralizing incarceration is similar to that contained in the state's mental-health program to put patients as close to home as possible as an aid to rehabilitation.

Hospitals. A major hospital-planning measure by Senator Anthony C. Beilenson and sponsored by Dr. Earl Brian, Secretary of Health and Welfare, will be heard by the Senate Finance Committee. It cleared the Senate Health and Welfare Committee by a single vote.

Mortgage brokers. After zipping through the Senate without a dissenting vote, a major consumer bill, SB 304 by Senator James R. Whetmore, will get its first Assembly hearing August 8th before the Finance and Insurance Committee. The proposal would limit fees charged by real estate brokers in their capacity as mortgage loan brokers.

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AN EMBARRASSMENT OF RICHES

1972's tax reform is 1973's fiscal fiasco

By Ed Salzman

Has the $1.1 billion Reagan-Moretti tax reform package enacted last December, already turned into a fiscal Frankenstein? Governor Reagan and Assembly Speaker Bob Moretti worked arm in arm last year to ram Senate Bill 90, their combination tax-relief and school aid program, through a reluctant Senate. Now they find themselves locked in a bitter political battle over the one-cent increase in the sales tax that went into effect July 1st — a tax hike that was a cornerstone of their own bill.

A plethora of problems have been produced by SB 90, among them:

- The sales-tax increase went into effect even though it was neither needed nor wanted. Reagan and Moretti allowed the levy to start July 1st by rejecting each other's plans to delay the starting date.
- By miscalculating the state's financial condition, the sponsors of SB 90 allowed a massive surplus to accumulate that will top $1 billion within a few months unless a new tax-relief bill is enacted.
- So much money was available this year that Reagan signed into law a $9.38 billion budget that even his own Director of Finance, Verne Orr, conceded is loaded with fat. For the coming fiscal year, at least, the "cut and squeeze and trim" policy of the Reagan administration has been abandoned.
- SB 90 was so riddled with technical defects that it is taking major new legislation to make the reform program work. Already, the Legislature has enacted one major measure, by Assemblyman Joe A. Gonsalves, chairman of the Assembly Revenue and Taxation Committee, designed to eliminate urgent problems caused for school districts by the Reagan-Moretti plan. At least one more major bill covering cities, counties, and special districts is needed.

The one-cent sales tax was imposed as part of the 1972 program, supposedly to balance the bill's property-tax-relief features. But the state's fiscal picture underwent what State Controller Houston I. Flournoy calls "an amazing turnaround" resulting from the institution of income-tax withholding and other reforms enacted in 1971. Flournoy reported that the state ended the fiscal year June 30th with a disposable surplus of $827 million. Orr estimated that the surplus will grow another $300 million or more this year, unless the sales tax is cut back or some other form of relief is provided.

Originally, the sales-tax increase to six cents on the dollar (6.5 cents in the Bay Area Rapid Transit District counties of Alameda, Contra Costa, and San Francisco) was supposed to begin June 1st. But the Governor and the Legislature did agree to stopgap delay of one month until July 1st to buy negotiating time while other fiscal matters were being resolved. The sales tax went into effect July 1st, after Reagan vetoed a bill sponsored by the Democratic leadership in the Assembly, and Moretti refused to consider a counter offer by the administration. Both the Governor and Moretti then blamed each other for the breakdown of the governmental process. Moretti said the vetoed bill gave the Governor "98 percent of what he asked for," and blamed Reagan's "intransigence" for the public's plight. And, in vetoing the bill, Reagan said Californians "should remember it was one man, Robert Moretti, who made that increase necessary."

While Moretti and Reagan were thus accusing one another, the public apparently blamed both. Mail and telephone calls to their offices showed that the general attitude was "a plague on both your houses."

The surplus

How and why did the impasse develop? Once the existence of a huge surplus was revealed, the Governor came up with a proposal to give the money back to the people by delaying imposition of the sales-tax hike required by SB 90 and by granting a one-time personal income-tax credit. Democrats preferred not to use the income tax for this purpose, arguing that it would not

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fairly redistribute the wealth. And some officials, including Flournoy, urged that the surplus be spent on capital improvement projects instead of floating bonds that had been authorized but not issued.

Generally speaking, Republicans prefer to raise money through the sales tax, while Democrats favor the personal-income tax. This philosophical difference produced a conflict over how long the sales-tax increase would be delayed. The Republicans preferred six months, the Democrats a full year. But another force was at work — Reagan's tax-limitation initiative, which will be voted on at a special statewide election in November. Moretti, a prime opponent of the initiative, realized that the 20 percent cut in the personal-income tax was an attractive provision in the initiative (that had little to do with the tax-limitation mechanism the initiative would insert into the state Constitution).

For months, Assemblyman Ken Cory, Democratic caucus chairman, had been pushing his own plan to dispose of the surplus. His AB 7 passed the Assembly but was killed in the Senate Finance Committee June 27th. The next day, a bill by Senator Walter Stiern was amended by the Assembly Ways and Means Committee to conform to the Cory bill. It would have delayed imposition of the sales tax for six months, eliminated state income taxes for families with annual income under $8,000, and provided a 30 percent reduction in personal-income tax on this year's earnings. It also would have established a limit on the one-time income-tax cut of $100 for single persons and $200 for families.

Reagan's reaction

The Cory-Stiern plan would have given the Governor everything he said he wanted — but with the major exception of the limit on the income-tax rebate. Reagan was furious. The bill would have taken away one of the prime arguments for his tax initiative. He might have looked foolish campaigning for a 20 percent income-tax reduction when the Legislature had already approved a 30 percent rebate. Hours before the Legislature was to adjourn on a five-week recess, the Governor came up with a counter proposal. He objected to only one feature of the Cory plan — the flat 30 percent income-tax cut with the $200 limitation. The Governor urged instead that a bill that had been sent to a conference committee (ironically, numbered SB 90) be used to delay the sales tax. If that were done, he said, he would promise in writing to go along with an income-tax rebate in 1974 determined by a sliding scale as follows based on joint returns with adjusted gross income:

$15,000 and under	35 percent rebate
$15,001 to $20,000	30 percent rebate
$20,001 to $25,000	25 percent rebate
Over $25,000	20 percent rebate

This would have meant that a high-income Californian scheduled to pay $5,000 in state taxes would get a reduction of $1,000 — $800 more than the maximum under the Cory-Stiern plan.

Moretti declines

Reagan called leaders of both houses down to his office to sell them his plan. Apparently, he succeeded — except for one significant omission: Moretti declined to attend. And when it was shown to him, the Speaker rejected Reagan's proposal out of hand, saying the counter offer would benefit only the "fat cats". The Governor defended his plan with the argument that the surplus should be returned to those who gave it to the state and that, therefore, those who paid the most should get back the most.

Imposition of the sales tax prompted demands that the Governor call the Legislature back into session. Secretary of State Edmund G. Brown Jr., for example, labeled the increase "absurd and irresponsible", and called for an end to the vacation period for both lawmakers and the Governor. A businessman in the northern foothill town of Auburn, Joe Krunholz, bought newspaper ads to call the lack of action "more than a dumb prune-picker can stand," and to proclaim his refusal to collect the additional penny.

Ample budget

Nonetheless, the Governor chose to allow the tax to take effect. He did so in part because he was far from bitter at the Legislature this year. The $9.38 billion budget was sent to Reagan's desk during the sales-tax dispute with smiles all around because there was so much money available that everyone's pet projects, it seemed, could be financed this year.

The conference committee that drafted the final version of the budget was headed by Senate Finance Committee Chairman Randolph Collier, who has been carrying out a campaign for a dozen years for construction of a new legislative office building two blocks east of the present Capitol. With the state treasury bulging, Collier decided to strike for his so-called Collier Towers in this year's budget. As it happened, this project became the privotal issue in the budget, and Collier took no chances. For example, he ignored the constitutional requirement that the budget be sent to the Governor by June 15th and held it in conference 13 days past deadline. By waiting until the eve of the scheduled summer recess, Collier made it virtually impossible for the conference committee report — and thus his new capitol — to be rejected.

Reagan had issued a series of statements indicating

A comparison of state spending

Here is a comparative summary, rounded off to the nearest million dollars, of major items in the 1973-74 state budget as introduced in January and as signed into law by the Governor, along with the estimated state expenditures for the same purposes in the last fiscal year:

Item	Estimated 1972-73	Budget As Introduced	Budget As Signed
Legislature	$ 38,000,000	$ 39,000,000	$ 47,000,000
Judiciary	26,000,000	26,000,000	27,000,000
Executive	5,000,000	6,000,000	6,000,000
Administration	102,000,000	113,000,000	127,000,000
Tax Relief	449,000,000	979,000,000	975,000,000
Debt Service	116,000,000	122,000,000	122,000,000
Pay Raises	8,000,000	226,000,000	226,000,000
Local Gov't Aid	701,000,000	737,000,000	737,000,000
Agriculture and Services	139,000,000	135,000,000	142,000,000
Business and Transportation	396,000,000	415,000,000	458,000,000
Resources	130,000,000	136,000,000	187,000,000
Health and Welfare	2,035,000,000	2,194,000,000	2,134,000,000
Education	1,692,000,000	2,253,000,000	2,452,000,000
Higher Education	799,000,000	850,000,000	862,000,000
Capital Outlay	754,000,000	725,000,000	887,000,000

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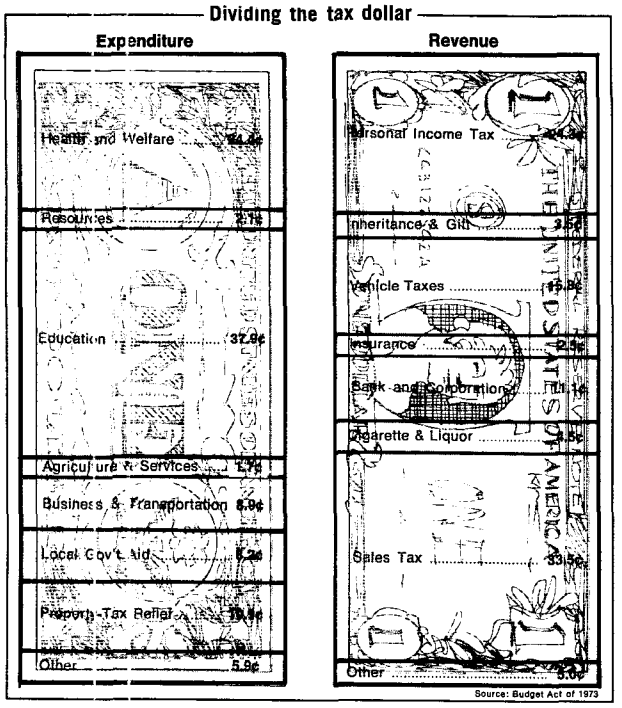

that he was not especially fond of the Collier plan, even in the face of two engineering reports that the present century-old Capitol is not structurally sound enough to withstand a major earthquake. The Governor said he preferred that the present building be reconstructed, even if it did cost the $42 million estimated to do so.

Orr's pull

Early in the year, Orr was attempting to develop a closer relationship between Collier, with whom he is friendly, and his boss, the Governor. Orr recalled hearing Collier relate with great glee how on one occasion Governor Edmund G. Brown had broken protocol by going up to Collier's office for a conference, instead of the reverse. Orr suggested that Reagan do the same, which he did,and the two held a private meeting.

The report is that the meeting was a back-slapping success. Not only did it produce a sort of mutual-admiration society between mountain Democrat Collier and Republican Reagan, but Collier also won a pledge to keep an open mind on his proposal for a new Capitol, pending submission of more detailed information by the Senator. At this time, the administration was apparently under the impression that only Collier felt strongly about the building. As the budget approached the decision stage, however, the Governor discovered that there was nearly unanimous legislative support for at least the general idea of better office facilities for legislators — although some lawmakers reportedly indicated that they could not support such a project publicly.

Collier, Moretti, and Ways and Means Chairman Willie Brown, among others, met with Reagan, Orr, and other members of the Governor's staff several times during the conference committee's negotiations. The result of these sessions appears — on the surface, at least — as an old-fashioned political horse trade. Those connected with the budget negotiations prefer to say that a "mutual understanding" had developed. In any case, the bill finally signed into law as the Budget Act of 1973 contained $42 million as a down payment on Collier's project as well as goodies for dozens of other legislators to bestow on their districts. While the Governor still cut $78 million from the $9.4 billion spending program sent him by the Legislature, this was far from the $250 million he removed last year.

Legislators' rewards

Orr conceded that the budget is riddled with "pork" that would never have been allowed in a leaner year. It takes no great search to find the legislators' rewards, for example:

- Senator John A. Nejedly wanted $1 million of the huge surplus to buy additional land for Mount Diablo State Park in the heart of his district in Contra Costa County. When his bill to do that reached Collier's Finance Committee, Collier suggested that Nejedly discuss the matter with the conference committee on the budget. Nejedly duly appeared, was turned down, went back, won a commitment that the funds would be provided if the voters approved a $250 million bond issue next June, went back a third time — and got the money in this year's budget.
- The San Francisco delegation obtained a $10 million state beach park near Candlestick Park.

Senator Fred Marler got a $1 million dam and $450,000 for an emergency ambulance service in his rural northern California district.

- Assemblyman Wiliam T. Bagley obtained $1 million to buy additional land at Tomales Bay State Park in Marin County.

Reagan's rewards

What did Reagan get in return? Two items, mainly:

- Allocation of $215 million in federal revenue-sharing money to the state school fund.
- A hands-off policy on key administration operations that do not fall directly within the Governor's office — such as the new State Information Service (see *CJ*, March 1973, p. 96).

Democrats had been talking about placement of the revenue-sharing funds in a special reserve outside the actual spending program. This the Governor opposed because it would have changed the formula for computing future taxation limits under his initiative. (Reagan complained that Moretti had agreed during the 1972 negotiations on SB 90 that these funds would go to schools. Moretti agreed, but the Governor recognized that the Senate was fed up with Moretti making deals for the entire Legislature.)

By tradition, the Legislature does not cut funds for the Governor's office. In return, the Governor gives the lawmakers all the money they want for running the Legislature. Reagan won an understanding this year that this "gentleman's agreement" goes beyond the Governor's office itself to cover such peripheral operations as the information service, which are by their nature quasi-political. The Assembly, meanwhile can continue its research project to develop a steam-car prototype (*CJ*, January 1973, p. 4).

Reagan also obtained an appropriation of $950,000 to proceed with construction of a new Governor's Mansion on a bluff overlooking the American River 11 miles east of Sacramento. Collier offered to boost the allocations to $1.3 million to cover furnishings for the residence, but Reagan declined. (Whether the mansion will be built this year is a matter of conjecture, in any case, because a strong campaign is being waged over the

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Governor's major budget vetoes

Governor Reagan vetoed the following major items before signing the 1973-74 state budget totaling $9.38 billion, explaining them as indicated:

Child care. $20.9 million for various programs for child care. Reason cited: federal funds are sufficient to allow for planned expansion of children's center programs.

Medi-Cal. $18.5 million from the Department of Health. Reason cited: the Medi-Cal caseload will not be as heavy as anticipated.

Welfare. $16 million from general public-assistance programs and $3 million from homemaker services. Reason: caseload reductions.

Legal aid. $1.7 million for legal assistance to indigents. Reason cited: the Legislature added funds not needed because of federal aid and a state commitment to assume increased costs of local government.

Public Utilities Commission. $130,000 for consulting services to the Bay Area Rapid Transit District. Reason: the commission already has enough money to provide BART with adequate safety inspections.

Salaries. $62,000 to reduce the pay hikes of some 50 high-ranking state officials from 15.9 to 12.5 per cent. Reason: only 12.5 per cent is needed to maintain parity between civil service employes and statutory officials.

Consumers. $480,000 from two items in the budget of the Department of Consumer Affairs. Reasons: the Bureau of Automotive Repair can do its job without an extra $200,000, and the Division of Consumer Services should be supported by $280,000 from special rather than general funds.

Coastline. $250,000 for the state and regional coastal zone conservation commissions. Reason: prior appropriations will carry the commissions through this fiscal year.

Fish and Game. $674,000 for various programs. Reason: the Fish and Game Reservation Fund is insufficient to pay for all programs approved by the Legislature.

Corrections. $2 million covering four items in the Department of Corrections allocation. The biggest item, $600,000, would have provided additional community correctional centers. An additional $1.1 million was eliminated from the Youth Authority budget, including $500,000 to reduce the caseload of counselors. Reason for most cuts: these appropriations should await completion of studies.

Education: $1.5 million from a variety of programs operated by the state Department of Education. Reason: the state should not automatically assume the cost of every program abandoned by the federal government.

University of California. $1.4 million in general support, plus $1.2 million for health-science programs and federal projects. Reason: the budget contains sufficient funds for all programs affected by the reductions.

State University. $1.5 million in various reductions for the state college and university system. Reason: the affected programs can be accomplished with other funds. Also eliminated was a $2.95 million science building at Bakersfield. Reason: the project does not carry a high enough priority to be built in this fiscal year.

Community Colleges. $1.2 million in scholarship funds. Reason: too much money is being used for administration of the program and not enough for grants.

proposed site, which happens to be a hitherto undiscovered Indian burial ground.)

The Governor's budget

In January, Reagan proposed a budget totalling $9.25 billion (*CJ*, February 1973). This compared with a spending level of about $7.7 million in the 1972-73 fiscal year. The administration added other items, bringing the total to $9.3 billion. The bill signed into law by the Governor included only an additional $80 million.

The Governor emphasized repeatedly that the massive increase in the budget has nothing to do with state spending. About $1 billion of the increase is a legacy from the Moretti-Reagan tax-reform package in the form of additional school support and an increase in the home-owner exemption from $750 to $1,750 assessed valuation. (The taxpayers, who have already paid about $30 million in unnecessary sales taxes, will not realize the benefits of the tax trade until their property tax bills are paid in December.)

Salary increases

Shortly after the budget was signed, the State Personnel Board approved a system for distributing $183 million in pay raises averaging 12.9 percent. (University of California and California State University faculties were given 7.5 percent increases, while wages of non-academic workers there were boosted 12.1 percent.) The pay raises for civil service personnel range from 2.5 percent to 22.5 percent, with most employees getting a 10 percent increase. The board's action was challenged by the federal Cost of Living Council as excessive under federal wage guidelines. (Last year, the federal government trimmed one percent off the state wage boost.) Reagan sent a task force headed by Orr to Washington to argue the state's case for the increases, which the council took under advisement July 19th.

Budgetary breakdown

The budget is by far the biggest in California history. It exceeds the spending program of any state, but is still $1 billion less than that of New York City.

Local schools account for the biggest allocation, $2.3 billion (see chart). Another $398 million was appropriated to run the University of California operations, and $406 million for California State University Construction funds, community college support, and special projects push the higher-education total beyond $1 billion. With federal and local contributions, welfare and Medi-Cal expenditures are estimated at $4 billion. The state picks up about one-third of this — $664 million for welfare and $603 million for Medi-Cal. (Reagan vetoed almost $40 million from these programs on the ground that new caseload estimates do not warrant higher levels of support.)

Child-care trim

In applying his blue pencil lightly, the Governor raised relatively few controversies. One was his cutting of $21 million from child-care programs. Speaker Moretti charged that Reagan had "wreaked havoc with the program" and that families now face the "horrible choice of risking their children's care and safety while maintaining their jobs or returning to the welfare rolls because they must stay home to care for their children." Dr. Earl W. Brian, Reagan's Secretary of Health and Welfare, challenged Moretti's assertion that 20,000 children would be eliminated from child-care programs, maintaining that total funds available for child care will rise from $78 milion in 1972 to $92 million this year, the state's contribution going up from $25 million last year to $35 million. (On the status of state child-care programs, see page 269)

A mild flap also developed over a veto of $250,000 for the statewide and regional coastal zone commissions created by passage of Proposition 20 last November. The Governor claimed that the commission has plenty of money — the $5 million provided for in the proposition — to carry the commissions through mid-1976. Joseph Bodovitz, Executive Director of the state commission, disputed that, however, saying additional federal or state funds will be sought.

Health budget

Reagan's laundry list of item vetoes (see box) includes one unusual item that could have significant con-

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sequences. The Assembly Ways and Means Committee was concerned about the budget of the new Department of Health (see *CJ*, April 1973, p. 123), which went into operation July 1st, and sought some means of keeping tabs on the expenditures. The new department's director, Dr. J. M. Stubblebine, submitted a schedule of proposed expenditures within the $58 million allocated for salaries and other employee expenses within the department. The Legislature placed Stubblebine's list in the budget unchanged as a so-called subschedule. At this point, Stubblebine's boss, Dr. Brian, urged the Governor to veto the item for these reasons, which Reagan cited in his veto message:

> The subschedule infringes upon my constitutional and statutory authority to organize, reorganize, classify, and arrange the functions of officers and employees of a state agency . . . . The subschedule constitutes a subject of legislation outside the scope of the budget act. In addition, the subschedule infringes upon my constitutional authority to eliminate or reduce specific budget items, impairs the state's ability to utilize available federal funds, would severely limit present programs, and would make compliance with federal law impossible.

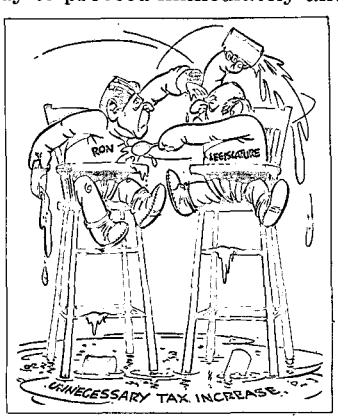
The state Constitution apparently offers none of these reasons as justification for an item veto, however. It says only that the Governor "may reduce or eliminate one or more items of appropriation." By removing the subschedule, Reagan did not reduce an appropriation — only restrictive language on the $58 million expenditure. Staffs of the legislative fiscal committees have been investigating the basis for a court test.

Collier's towers

In two ways, Reagan placed his brand on the most controversial item in the budget, Collier's $42 million appropriation to start the Capitol project:

- He won a guarantee that the project would be sent out to competitive bidding.
- He attempted to give the public a voice in the decision by insisting that the project not proceed without the Legislature first passing an enabling act authored by Ways and Means Chairman Willie L. Brown.

The administration's notion was that this would assure thorough debate, with the public invited to argue for and against a new Capitol and to offer proposals for its design. Now, administration officials say privately that they fear that the Brown bill will be rammed through the Legislature with a minimum of discussion. Collier, for one, is ready to proceed immediately and begin construction early next year. He soon will offer plans for both single- and twin-tower designs. Under his original plan, each tower would have 17 stories — enough to give each lawmaker a corner office.



From the San Francisco Examiner

In any case, unlike Moretti and Reagan, Randolph Collier, the crafty 70-year-old dean of the Senate, obtained a long-sought victory from this year's fiscal conflict. Even for the Governor and the Speaker, however, the aftermath of SB 90 has advantages that can partially offset the Frankenstein image. Reagan, for example, can point to the tax impasse as prime evidence of the need to enact his tax-limitation initiative. And Moretti enjoys being portrayed as Reagan's villain because he thinks his role as the Governor's chief antagonist may help him win next June's gubernatorial primary election.

Veterans Department may have wiped out Cal Vet Disaster Insurance

Cal-Vet mortgage-holders may have had their voluntary, state-provided disaster insurance removed May 1st when the state Department of Veterans Affairs entered into a commercial flood-and-earthquake insurance contract. That development emerged during a little-remarked hearing June 26th of the Assembly Committee on Efficiency and Cost Control. At it, a transcript makes evident, the department came in for some sharp criticism — especially from Committee Chairman Mike Cullen. He was critical on two counts:

- In obtaining the insurance, the department not only failed to use competitive bidding but also accepted without question payment of a 20 percent commission to the five brokers who jointly searched the insurance market on its behalf.
- Department Director Frank D. Nicoll (himself an insurance broker) ignored legislative intent contained in the Disaster Indemnity Act, which created a state insurance fund but specified that any coverage be offered on a voluntary basis. (As of May, each Cal-Vet mortgage was automatically billed a $4.80 annual premium.)

"I can find no authority justifying your making participation mandatory," Cullen told Nicoll. "Therefore, since you have made earthquake insurance mandatory . . . , you prevent anyone [from] bringing a claim against the Disaster Fund if they are damaged by earthquake, because Section 989.4 of that fund only applies to damage not otherwise covered by insurance required of the purchaser — that is, the earthquake and flood that's presently required of all veterans . . . ."

As a result, he continued, the forcibly insured mortgage-holders will likely pull out of the new Disaster Indemnity Fund the Legislature created for them and for which they no longer qualify, the fund will fail, and "we will have permanent commercial earthquake insurance in the State of California." Moreover, Cullen pointed out, because the mandatory policy doesn't have a deductible clause based on damage per house, but rather a million-dollar statewide deductible, an individual home-owner can make no claim unless a million dollars of damage has first been caused.

The Assemblyman suggested that emergency legislation may be needed to remedy the situation created by the department's action.

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ALL'S QUIET IN COMMITTEE

Whatever happened to the big no-fault furor?

By STEVE MARTINI

In his 1972 State-of-the-State Message, Governor Reagan declared that high among his priorities for legislative attention was institution of a system of no-fault automobile insurance. But a year and a half later, after a good deal of sound and fury, the matter seems relatively quiescent. Was last year's failure fatal to no-fault in California? Did the idea "peak out"? Or is it idling in committee, awaiting some catalyst to start it moving again?

A leading Republican legislator flatly predicted last year that, with Governor Reagan's support, a no-fault auto insurance bill would "fly through the Legislature and be signed by the Governor." Many believed that 1972 was the year that no-fault was "wired to go" in California, but when the session finally adjourned last December 1st, the only two no-fault bills still pending were locked in the Senate Finance Committee. As the legislators returned to the Capitol this month, a handful of 1972 no-fault measures remained alive, but in such a state that few are trumpeting 1973 as the year of no-fault. If it is to be, however, the legislators will have to act on the pending bills within the 52 legislative working days from August 6th to January 31, 1974, or see those bills die for the 1973-74 session.

An old idea

The Legislature has been confronted with no-fault since 1969, but only within the last two years have serious efforts been made to bring about such a system of granting reparations payments in auto accidents without regard to who was at fault. Nor is the concept of no-fault insurance new. It is grounded in Workmen's Compensation statutes enacted in many states early in this century. The idea gained popular appeal in more recent years through publication of several books — particularly one by Robert Keeton of Harvard Law School and Jeffrey O'Connell of the University of Chicago Law School. Many states have drawn on the Keeton-O'Connell "Basic Protection Plan", modifying and adapting it to their own particular needs.

The thrust of no-fault goes to the heart of a basic principle of English and American Common Law — the concept of liability, that a person must compensate the victim for damage done. No-fault attempts to eliminate the element of guilt in auto accident cases, providing that each motorist will contract with his own insurance carrier for so-called first-party benefits. (These are benefits paid directly to the insured party, without regard to fault.) No-fault legislation in California and other states has run the gamut from "pure" no-fault — complete elimination of liability and the right to sue for damages — to "modified" plans providing a medical-damages threshhold (usually $500 or $1,000). Once the threshhold is passed, a person can sue for recovery of general damages for pain and suffering that may not be reflected in medical bills. Between the "pure" and "modified" plans are a plethora of variations, a number of which have been put in legislative form.

Why no fault?

Efforts to enact no-fault in California date back to 1970, and original proponents of these plans saw two major benefits from the system. No-fault, they claimed, would reduce delay in settling insurance claims. John Kehoe, Director of the state Department of Consumer Affairs, said in an interview that a major problem with the current system is that families in the lower economic strata are "being coerced into taking reduced settlements because of their need for a rapid payment of claims." This problem would be solved by no-fault, Kehoe believes.

The second major benefit cited is a fairer return of the insurance dollar to the claimant. In 1971, Assemblyman Jack Fenton, a leading no-fault proponent said that under the present system only 45 cents of each dollar spent for an insurance premium comes back to California motorists. The rest, said Fenton, is spent determining who was at fault and paying the cost of insurance administration. Since no-fault would eliminate the need to litigate, Fenton argued, the system would leave more money available to pay claims.

Other principles of the fault system also serve to defeat claims. The doctrine of "contributory negligence" — a rule of law that prevents an injured person from collecting even a nominal benefit in a case in which his own negligence contributed to the injury — is a leading factor. For this reason, many of the no-fault plans proposed for California include provisions for a system of "comparative negligence" to allow the injured motorist to collect at least that part of his damages attributable to the other driver's negligence. (This would apply only in plans where a fault recovery is allowed once the medical-damage threshhold is reached.)

Even more than contributory negligence, the incidence of the accident involving only one motorist and one auto is the major bar to recovery under the present liability system. The present system leaves the victim of such an accident without a remedy, since there is no one to sue.

While no-fault presumably would provide at least a partial cure for such problems, legislative attention has nonetheless tended to focus on a more elusive and even secondary benefit — a potential premium reduction attributed to various plans. Indeed, this question of lower

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premiums has generated so much interest that the debate has clouded the fundamental concept and benefits of no-fault insurance. In any case, Fenton found himself in 197[illegible] hard pressed when a member of the Senate Judiciary Committee asked him to assure that his bill would result in a premium savings for California motorists. When he was unable to do so, the bill died in committee, and the premium-cost debate was born.

In 1972, the no-fault campaign was launched by Reagan's assertion in his State-of-the-State Message that no-fault promised a potential premium savings. Subsequently, lawmakers began gathering actuarial figures to show that their particular plan offered the greatest savings. Fireman's Fund Insurance seized on the issue in a massive advertising campaign, and purchased full-page ads in major California newspapers to proclaim that no-fault would save $50 million dollars a year in insurance costs.

The question of premium reductions remains tied to the no-fault issue this year. In June, the Pasadena actuarial firm of Milliman and Robertson, Inc., issued a lengthy report on the cost effects of five major no-fault plans now pending before the Senate Judiciary Committee (see table of comparisons). Fenton's AB 50 came out on top in terms of a premium reduction (19 percent), which Fenton saw as an answer to his critics and as an apparently important selling point.

Bion Gregory, Chief Counsel to the Senate Judiciary Committee, believes that the premium reduction has been much overemphasized. Some legislators who wanted to vote against no-fault, Gregory said, found the cost factor a convenient reason to vote "no". But Consumer Affairs Director Kehoe said that a premium reduction is still the most important issue in the complex no-fault battle — if only that it may be one of the few aspects of the no-fault question that average consumers can understand and appreciate.

Herb Hafif, former president of the principal organization opposing no-fault, the California Trial Lawyers Association, remains unconvinced that a no-fault system would offer California motorists a savings. "That myth has been exploded," he asserted. "There was no such thing as a premium reduction, merely a forced exchange of rights. If you're going to take away rights, of course you can lower the raw costs if insurance. The sudden enthusiasm for no-fault waned when people found out about that."

Though still opposed to the concept, the Trial Lawyers have changed their pattern of opposition this year and are in fact, sponsoring their own no-fault bill, SB 429 by Senator James Mills. The bill's critics contend that what it provides is not even a no-fault plan, since it contains no medical-damages threshhold and would continue to allow persons to sue for pain-and-suffering damages regardless of the extent of their medical bills. Under SB 429, an injured person exercises an option — either collect damages through no-fault in first-party benefits, or sue. And he can even do both.

By sponsoring a bill, the association can avoid the one element of no-fault that to them has never been ne-

A brief comparison of no-fault bills (all in Senate Judiciary Committee)

	SB 10 Song	SB 429 Mills	SB 557 Bradley	SB 1273 Nejedly	AB 50 Fenton	
Coverage	Requires every liability policy to provide first-party benefits.	Requires every liability policy to provide first-party benefits unless insured has equivalent benefits under other policies.	Requires every liabilty policy to provide first-party benefits.	Requires every owner of a motor vehicle to be covered by insurance providing first party benefits.	Requires every liability policy to provide first-party benefits.	Requires every owner of a motor vehicle to be covered by insurance providing first-party benefits.
Vehicles covered	All motor vehicles other than motorcycles.	All motor vehicles other than motorcycles.	All motor vehicles other than motorcycles.	All motor vehicles other than motorcycles.	All motor vehicles other than motorcycles.	All motor vehicles.
Benefit Limit	$5,000 and, after amount of all benefits paid equals $5,000, 100 percent of medical treatment expense until total amount of all benefits paid equals $5,000,	$5,000.	$5,000 for named insured and members of his household. $7,500 for pedestrians and occupants of vehicle.	$2,500 with requirement that expense be included within 3 years.	$50,000 for medical treatment expense. $5,000 for loss of compensation, loss of services, survivors benefits, and funeral expenses.	$10,000 for one person, subject to limit of $20,000 for all persons in one accident, with requirement that expense be incurred within 1 year.
When benefits must be paid	30 days. Penalty for late payment.	10 days. Penalty for late payment.	30 days. Penalty for late payment.	30 days.	30 days. Penalty for late payment.	No provision.
Recovery of damages for pain, suffering, mental anguish, and inconvenience	Prohibited unless $1,000 medical treatment expense.	No restriction.	Prohibited unless $1,000 medical treatment expense.	No restriction.	Prohibited unless $1,000 medical treatment expenses.	No restriction.
Requires rate reduction	No.	No.	No.	No.	Yes.	Yes.
Premium cost effects: (Milliman & Robertson Actuaries)	No figures reported.	6 percent increase. Additional increases in 1975.	13 percent decrease	12 percent increase.	19 percent decrease.	13 percent increase.

Source: Senate Judiciary Committee

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gotiable, the medical-damages threshhold. Trial Lawyers insist on a person's right to recover damages for pain and suffering, while critics see the lawyers protecting an important source of fees — namely personal-injury auto litigation.

Hafif conceded the self-preservation element, but maintained that lawyer opposition to no-fault also runs deeper than a desire for financial gain. The proposed threshhold will work a serious inequity, he argued, resulting in persons with serious injuries receiving minimal compensation. There are cases, he said, in which the medical damages are under $1,000 in which there is no permanent impairment of bodily function, though there may be lingering severe pain. No-fault will offer such victims nothing but their medical bills, he said, and perhaps minor compensation for loss of wages.

Opposite ends

The Fenton and Mills bills are at opposite ends of the no-fault spectrum. Hafif argued that AB 50 requires people to pay for benefits they could never receive under it, that unemployed housewives and students are compelled to pay for loss-of-wage benefits, for example, while having no wages to lose. Critics of Mills' SB 429 say that it would only create a larger pocket for trial lawyers to reach into for collecting damages. The legislation increases the minimum requirement for financial-responsibility coverage from the present limit of $15,000 for injuries to one person to $50,000, and from the present $30,000 for coverage for multiple-injury accidents to $100,000.

Though poles apart, the bills may offer a possibility for some legislative trading off. This became clear when the Senate Judiciary Committee voted to defeat SB 429, then granted reconsideration just two days later. According to Senator Craig Biddle, a member of the committee, without Mills' bill, supporters of AB 50 would have nothing to bargain with. Biddle explained that, while he favors the Fenton bill, if it came to a point where both bills were stalled in committee he would seek a trade of votes to secure release of both bills because of his belief that, if both were to reach the Governor, AB 50 would most likely be the one signed.

There is no assurance of that, however. Kehoe, who spoke for the Reagan administration on the no-fault issue last year, said that his office is taking a close look at SB 429. What is lacking, he said, is information on the experience of Delaware, which has a system similar to that contained in SB 429. Kehoe would say only that the Governor continues to support the concept of no-fault; thus, the administration is retaining maximum flexibility for negotiating, too.

Of the six bills before the Senate Judiciary Committee this year, SB 1273 by Senator John Nejedly was killed the day the committee rejected SB 429. Unless the committee approves SB 429 and two other bills — SB 10 by Senator Alfred Song and SB 557 by Senator Clark Bradley — and they clear the Senate by January 31, 1974, they will be dead for the 1973-74 session. Bills must clear their house of origin by that date. AB 50 and Assemblyman John Francis Foran's AB 801 have, of course, already done so.

Action on no-fault this year has been sluggish by comparison with 1972. Some observers attribute this to the new two-year session, but one interested lobbyist maintained that no-fault "peaked out" in 1972. "There hasn't been the inquiry into it that there had been in past years," said this lobbyist, who supports no-fault and who preferred not to be named. "Legislators are not asking the questions that they did in the past."

Fenton disagreed. He is getting just as much mail asking for enactment of no-fault this year as last, he said. Virgil Anderson, lobbyist for the California State Automobile Association, also called the push for insurance reform as strong this year as in the past, and disputed the assertion that pressure by the insurance industry to enact no-fault is being lifted.

Kehoe, who led the administration's lobbying effort last year in the name of consumers, noted little consumer comment on no-fault legislation at recent committee hearings. Most of the testimony he heard came from representatives of the insurance industry and trial lawyers.

Last year, the California Consumer Federation — an amalgamation of local consumer groups and labor organizations — entered the no-fault fight. Its representatives set forth a series of consumer demands regarding payment of claims and effects of no-fault on premiums, but finally refused to back any of the no-fault bills, putting it on the opposite side of the issue from the state Department of Consumer Affairs. This year, however, the organization has been relatively silent on the subject. The reason became apparent when Jim Reed, a federation lobbyist, wrote members of the Senate Judiciary Committee on June 14th. Reed told the committee that, "based upon the inconsistency of the [federation's] position and the delay in developing this new position paper [attached to the letter], I have refused to represent them on this issue."

For some months, while the Consumer Federation was laboring over the issue of no-fault, there were rumors that organized labor was seeking to capture it and have it support a "pure" no-fault bill, which would bar court suits. Labor's interest, according to an informed source who declined to be named, stems from a desire to negotiate no-fault auto insurance as an employee benefit.

Other elements of the Consumer Federation resist such an approach, calling it unrealistic in terms of passage and also in leaving the group with no room to negotiate. The upshot has been that the consumer representatives remain fragmented on no-fault.

Federal no-fault?

They are not alone on that score. The insurance industry, once a monolith behind no-fault, is also badly fragmented, ranging from support for "pure" no-fault to opposition to any no-fault plan. Gregory, the Judiciary Committee consultant, blamed this fragmentation for the lack of a no-fault system in California today. So intense is the division of opinion, he said, that the Trial Lawyers were able to outspend the huge industry in opposing no-fault last year, though "the industry could easily outspend the trial lawyers."

As the session resumed, no-fault proponents seemed to be quietly surveying the situation, unclear from which direction the needed new impetus might come. According to Anderson, the auto-insurance lobbyist, insurance companies worry that if no-fault is not enacted this year support would increase for nation-wide no-fault legislation and the federal regulations such a system would entail. On the federal question, at least, the insurance industry is not divided: the companies uniformly oppose it.

That may explain Kehoe's comment that "no-fault in California may be a giant that is asleep — I think it could easily be aroused."

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Bright promise of child-care program fades as Governor and legislators disagree over just who needs help

With passage of the Welfare Reform Act two years ago this month, California appeared to be on the verge of a rapid expansion of child-care services for working mothers on a scale not seen in this country since World War II. That has not happened. Today, the federal government is threatening to withdraw much of its aid for child-care programs, and Governor Reagan chopped the Legislature's $23 million appropriation for child-care centers to $5.8 million before signing the Budget Act of 1973 (see story on page 261). While several bills to pump more money into the program remain alive in the Legislature, proponents are not especially optimistic at this point — much in contrast to the outlook two years ago.

The reason for the optimism in 1971 was that the Welfare Reform Act contained a provision directing California's 58 counties to provide child-care services for "former, curent, and potential recipients of public assistance" who agreed to "accept or maintain employment or training, and who certify that, without such services, they would be unable to accept or maintain employment or training." The act appropriated $3 million to pay for this program. The counties were to add $1.5 million, and the federal government another $13.5 million. With a budget of $18 million, an estimated 15,000 to 20,000 children could be added to the 125,000 already being cared for in public and private child-care facilities.

Differing aims

The program has grown over the two years, in terms of both funds and children cared for, but accomplishment has still fallen far short of promise. What happened — or failed to happen — was the result of interagency mistrust, legislative haste, conflicting administrative priorities, and diverging state and federal policies. But underlying the current impasse as well are the differing views of the Reagan administration and the legislative sponsors of child-care expansion over the aims of such a program.

This crucial difference hinges on the family-income cut-off point for participating in the program. The administration wants to provide free service only to those families on welfare and any others who fall into the category of what it has called the "truly needy". Assembly Speaker Bob Moretti, among other legislative advocates of child-care, wants the centers to be open also to those families with slightly higher income than those on welfare, so that parents will not be tempted to quit their jobs in favor of welfare checks of nearly the same amount.

Dr. Earl Brian, Reagan's Secretary of Health and Welfare, put this difference clearly in a recent letter to Moretti. Despite the Governor's budget cut, he pointed out, more children will be included in the program this year than last, and there will be more money available this year than last. And, he maintained, no children will be eliminated from child-care programs. Moreover, Brian wrote, if the proposed federal regulations had taken effect "any child displaced by the regulations would have been replaced by a child and family in financial need of the service."

History of delay

The result has been a sort of dialogue of the deaf that increasingly frustrated the author of the Welfare Reform Act, Senator Anthony C. Beilenson, who had fought hard for the child-care provisions. The administration's agreement to expand child-care programs had made it much easier to accept the tougher welfare rules that the Governor had insisted upon two years ago.

Having won the Governor's support for additional state spending, Beilenson was angered when he found on October 1st, three months after his bill had been signed into law and the date its major provisions were to take effect, that little had been done to expand child-care programs. Only on December 21st, according to a report by the Auditor General, had the state Department of Social Welfare notified the counties that it had made tentative allocations of the act's funds and asked them to submit proposals in accordance with the new law. But not until June 30, 1972, had the necessary county plans been received and approved.

At this point, last summer, the promised expansion of services appeared about to get underway. This was the hope, at any rate, of those in the communities responsible for administering the programs. But, before most of the new county plans could be put into effect, a new obstacle arose: the Legislature passed Assembly Bill 99, by Assemblyman Jerry Lewis, which shifted all responsibility for child care from the Department of Social Welfare to the Department of Education, effective last July 1st. In doing so, however, the bill wiped out key provisions in the Welfare and Institutions Code regarding funding and failed to write new funding provisions into the Education Code. The result was confusion in the counties: would they be reimbursed for child-care expenditures from state and federal matching funds? Faced with that question, most county Boards of Supervisors halted expansion of the centers until it could be answered. For a time, it even seemed that some existing programs might also be curtailed.

Though the Department of Social Welfare, which retained interim administrative responsibility for the program, issued a directive authorizing continuance of existing child-care services, this message alone wasn't

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very convincing to many county officials who had become leary of state actions that might cost them more than they had bargained for. In an attempt to back up his letter, Director Robert Carleson and state Finance Director Verne Orr asked Controller Houston I. Flournoy to announce that his office would continue to honor county claims for child-care expenditures. The Controller instead bucked the problem to Attorney General Evelle Younger by asking for a formal legal opinion as to whether the $3 million appropriated by the Welfare Reform Act a year earlier could now be spent.

Investigation ordered

It was at this point that Senator Beilenson asked the Joint Legislative Audit Committee to investigate. The committee's report, issued last November, found very few additional child-care services being furnished and described the 13-month-old program as appearing to be "at a standstill". The Auditor General's report blamed the delay on the Department of Social Welfare and the counties, but it also criticized the Legislature for wiping out the essential funding provisions.

Later that month, the Legislature passed AB 282 by Assemblyman William Bagley, resolving the funding problem, and the state again instructed the counties to proceed immediately with the expanded child-care services. But the directive to do so gave the counties pause. In his order, Dr. Brian placed the Reagan administration behind prompt action by the counties, but he sounded an ominous note in mentioning Congress' recent passage of the State and Local Fiscal Assistance Act of 1972, better known as the Revenue-Sharing Act. Among other things, this imposed a nationwide $2.5 billion ceiling on federal contributions to social-service expenditures (including child-care costs), a provision that had, Brian wrote, "major implications for the states and counties."

For the counties, at least, the message seemed clear: the figure of $2.5 billion provided no increase in federal aid over the current fiscal year. This meant that any growth in workload for social services because of higher caseloads would have to be paid for out of existing funds — and very likely out of existing child-care funds. Of the $273 million that the state estimated it would need for all social services, including child care, it was to get $245 million. Consequently, the counties began cutting back their spending plans for child care. At about this time, the state Department of Education released a preliminary report of a statewide survey of child-care needs, indicating that at least 150,000 California children — and perhaps as many as 645,000 — needed day care.

Federal regulations

Worse news followed. Late last January, word came from Washington that Secretary of Health, Education, and Welfare Caspar Weinberger was about to release new regulations that would sharply restrict eligibility for child care, and that funding was to be cut back accordingly. On February 14th, the new regulations were announced, providing that:

- No private funds could be used to match federal funds for child-care (thus crippling campus child-care centers, which by state law depended upon such an arrangement).
- Eligibility for county programs would be limited to those on welfare, those who had just come off welfare within the last three months and had received child care during that time, and those who might be expected to go on welfare in the next six months in the absence of child-care services.

Under the existing regulations, former welfare recipients are defined as persons who have been on welfare within the past two years, whether or not they received child-care benefits; a potential recipient had generally been defined as anyone with a high likelihood of going on welfare within the next five years. According to state estimates, the new regulations would have made 30,000 of the 45,000 children then enrolled in child-care programs ineligible on March 18th.

State reacts

One of the first to respond to this new threat to the programs was Assembly Speaker Moretti. He introduced legislation on February 16th to appropriate $11 million in state funds to continue the existing level of service through June. Thus, if federal funds were in fact withdrawn, the state could move in to keep the programs going through the end of fiscal year 1972-73. With support from Governor Reagan, Moretti's standy bill moved quickly through both houses without opposition and was signed into law, after the appropriation was reduced to $8.8 million on March 26th to match the latest cost estimates.

The new federal plan, Moretti later told a U.S. Senate committee, would be devastating to California's child-care effort. "The proposed regulations," he said, "would leave a working mother who earns more than $253 a month and has one child only two alternatives: to return to welfare or deprive her child of decent care." Brian also traveled to Washington to tell federal officials, "This care has to be maintained." These official protests, as well as letters from citizens, apparently bore fruit, for by the end of March Weinberger apparently had decided to hold back his new regulations.

Moretti meanwhile got the Assembly Ways and Means Committee to add $34.8 mililon to the state budget for 1973-74 to be spent for child care if the federal government withdrew its support as threatened. By the time the budget act reached the Governor, this amount had been cut by about one-third, to $23 million, and Reagan reduced the remainder by another two-thirds, leaving only $5.8 million in the Budget Act of 1973.

Several more ambitious programs remained alive as the Legislature resumed its session August 6th. Moretti's AB 1244, for example, contains, among other funds, his original $34.8 million to replace withdrawn federal funds for children's centers, state preschools, and day-care centers for the offspring of migrant workers and college students. It was scheduled for hearing before the Assembly Ways and Means Committee August 8th. The administration seems more inclined to support Senator Milton Marks' SB 395, which would appropriate $29.3 million in replacement funds. Another alternative is Assemblyman William Bagley's AB 1266 which provides up to $50 million a year for five years, if federal aid is withdrawn.

None of this left such supporters as the Liaison Committee for Child Care Centers in Higher Education very optimistic. "If the Governor supported California child-care programs," reasoned its newsletter last month, "he would have signed the budget augmentation in the first place."

So, with fits and starts, child-care programs continue to grow in California, but much more slowly than seemed promised two years ago.

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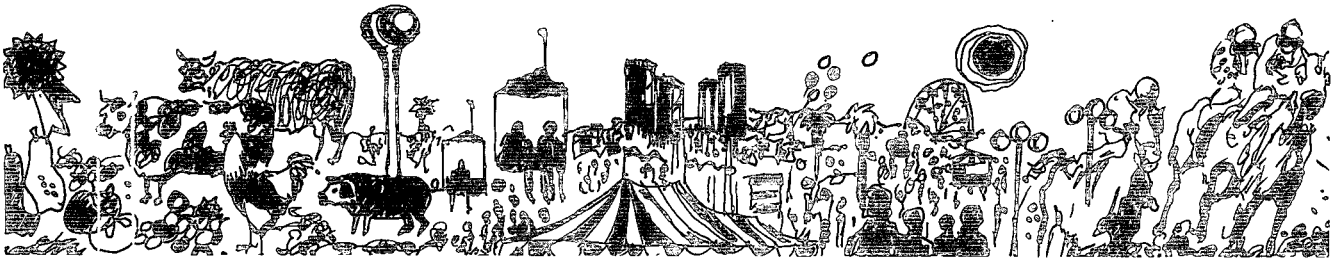

Mott takes over Cal Expo, but it's still just a fair

Once heralded as a future "Disneyland of the North", Ca. Expo remains just another state fair as the August 24th opening of the 1973 California State Fair and Exposition approaches. And, despite plans to transfer control of the exposition center on the bank of the American River in Sacramento to the Department of Parks and Recreation, its destiny appears unlikely to change. (The transfer from the Department of General Services still needs legislative approval, but for all practical purposes it is fact.)

The shift of responsibility is in line with an apparent effort by William Penn Mott Jr., Director of Parks and Recreation, to expand state recreational facilities. As a unit of the state park system, Cal Expo can be relieved of the burden placed on it by the 1957 Legislature, which appropriated money and authorized a revenue-bond issue for its construction — namely, eventually becoming an economically self-sufficient operation. The park system hasn't been expected to survive on such a basis, so perhaps this transfer acknowledge that predictions of Cal Expo's eventual economic independence were a bit ambitious. It also is evidence of the Reagan administration's intention to make the state responsible for Cal Expo's success.

William Penn Mott Jr.

The decision to transfer Cal Expo resulted from a task force study organized by Agriculture and Services Agency Secretary James Stearns last December, and headed by Frank Walton, Secretary of the Business and Transportation Agency. Stearns reported to Governor Reagan on March 8th that the present committee-management structure was "ineffective" and, together with minimal help from the City and County of Sacramento, constituted two of the main ills afflicting Cal Expo. The task force offered three alternatives to resolve the problems:

- Sell the real estate and abandon the Cal Expo concept.
- Continue Cal Expo with the same Executive Committee maangement system.
- Invest more money for improvements.

The Governor chose the latter course and, on March 16th, the Cal Expo Executive Committee officially learned of the proposed transfer.

According to A. Alan Hill, Deputy Secretary of the Agriculture and Services Agency, Mott was drafted because he is a "great performer" with a "clear track record" in the operation of his department. Before that, in a long public-service career, Mott developed a reputation as something of a magician with projects, a master manipulator of elected officials, a hard-nosed negotiator for park property, and a fighter to preserve the state's natural resources. He earned a national reputation as Director of Parks for the City of Oakland and as General Manager of the widely praised East Bay Regional Park District, but the highly successful "Children's Fairyland" he developed on the edge of Oakland's Lake Merritt is the closest thing to Cal Expo he has tackled.

Mott offered no quick solutions for Cal Expo and so far hasn't outlined a specific need for additional public investment. But even the dissolved Executive Committee eventually came to the conclusion that more money would be needed. In July 1972, it recommended, in effect, going back five years to the original Cal Expo master plan set aside in 1967 on the eve of construction by the incoming, economy-minded Reagan administration. (See *CJ*, August 1972, p. 224, for an account of Cal Expo's history.) That plan contained five major elements:

- An exposition center providing a year-round educational and cultural display area.
- An industrial exhibition area for private industrial use.
- An amusement park based on California themes.
- A traditional state fair activities complex.
- A racetrack for both horses and cars.

If that were done, predicted Economic Research Associates, the consulting firm that developed the master plan for the state, the year-round exposition would immediately become self-sufficient and even turn a profit.

Last chance?

It did neither, of course, and the state apparently remains unconvinced that it would, since it declined the committee's invitation of last summer to add $9 million to its $30 million investment. Instead, it turned Cal Expo over to Mott, who said he has discovered one fundamental problem with Cal Expo that he will immediately solve. "There are all sorts of people who want to help make Cal Expo succeed," he said, "but they've never been asked. We're going to do plenty of asking."

Beyond that, however, unless Mott really has some magic up his sleeve, it seems likely that the state will eventually have to decide whether or not to sink substantially more money into Cal Expo in the hope that time and circumstances have changed enough to permit the concept to flourish at last. And Mott knows the stake, for mingled with the congratulations he received on his new responsbility were sharp warnings that this is the exposition's last chance.

In other words, if Mott can't make Cal Expo go, Cal Expo will go.

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Financial community seeks reform of state consumer-credit laws, but so far it's no sale

By DENNIS CAMPBELL

Senate Bill 3, a proposed consumer-credit code, has the thickness of a novel. Like all literature of substance its plot lends itself to more than one interpretation. There is, for example, the debate over who wins and who loses in SB 3. Is it, indeed, an attempt to enact a comprehensive and effective consumer-credit code? Or will it do little more than comfort the credit industry at the expense of consumer-protection laws already on the books? Because of its 200 pages of complex legal prose SB 3's movements in the Senate have attracted little public attention. This article examines the origins of SB 3, its politics, prospects and scope, and some possible alternatives to it.

If you don't like Senate Bill 3 now, wait a bit: it will change. Amendments to California's proposed consumer-credit code have come with such frequency that many interested parties — particularly its opponents — have had trouble keeping pace. Take the example of California Rural Legal Assistance, which has followed the legislation since its original drafting by Senator Alfred Song. On June 8th, Edgar Kerry, CRLA's lobbyist, sent Song a long list of objections to SB 3. Among other things, Kerry contended, the proposed code seriously weakened the rights of consumers, leaving them less able to seek remedy in court. Kerry reminded Song that several consumer spokesmen, including Professor James McCall of Hastings Law School, testified against SB 3's remedy provisions in earlier hearings. Unknown to Kerry, however, SB 3 had been amended June 6th to include a new section on consumer rights — and the author of many of the changes was none other than Professor McCall.

The incident illustrates the difficulty that a fractionalized and underfunded consumer front is having in dealing with an intricate piece of legislation that is supported by much of the credit industry. All consumer advocates interviewed on SB 3 qualified their responses with the remark, "The last time I read the bill . . . ".

SB 3 is indeed rather like a river seeking the most facile channel. The proposed code it embodies was born in amendment when it was adapted from a national model law, the Uniform Consumer Credit Code. It was amended once during the 1972 legislative session, has been amended four times so far this year, and is likely to be amended again. In fact, Richard Wright, who is secretary of the commission that developed SB 3, is prepared to offer more amendments for consideration during the legislature's six-week summer session, which began August 6th.

Dennis Campbell, a graduate of McGeorge School of Law, is a journalist specializing in legal-affairs reporting.

Simplifying a hodge-podge

SB 3 regulates many aspects of consumer finance, from loans and credit reporting to credit cards and contracts for dance lessons and health-studio services (see box). Wright argues that the proposed code will simplify a hodge-podge of existing consumer laws. It repeals nearly every important consumer-protection act in California — the Unruh Retail Installment Sales Act, the Rees-Levering Automobile Finance Act, the Moscone Automobile Leasing Act, and the Small Loan Law. Wright maintains that SB 3 preserves most of the protections provided by those laws, but this contention is disputed by many consumer spokesmen. While conceding that lenders now must deal with a set of complex and confusing laws, they consider that SB 3 exacts too steep a price from the consumer in the name of simplification.

SB 3 was drafted for the Advisory Commission on the Uniform Consumer Credit Code, created by the Legislature in 1971 on the initiative of Senator Song. The model national code, or UCCC, came before the California legislatiure as early as 1969, but nothing much happened until it was referred to the special commission. The membership of that commission is of interest, because its composition was the target of the first criticism leveled by CRLA and other consumer-oriented groups against the proposed code.

Industry representation

The commission chairman, these critics pointed out, was Wendell Johnson, a lobbyist for Public Finance Corporation and also an important political backer of Senator Song, who himself has close associations with the credit industry. Wright, the secretary of the commission, is also a lobbyist for the personal-property brokers industry. Commissioner George Richter Jr. is a senior member of a law firm that represents such clients as Beneficial Finance Corporation, Associated Dry Goods, Broadway-Hale Stores, C.I.T. Financial Corporation, and Transamerica Insurance Company. Olen Kull is identified with Household Finance Corporation, Wallace O'Connell with the automobile industry; Fred Pownall is a lobbyist for the Southern California Bankers Association, Arthur Summers is manager of a credit union, Charles Thomas is president of a financial corporation involved in projects with minority groups, and Irwin Shapiro is an attorney with Montgomery Ward. More or less representing the consumer were Babette Barton, a law professor at the University of

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California at Berkeley, and James Reed, lobbyist now for the Consumer Federation of California, Common Cause, and the Planning and Conservation League. Other members were Howard Weiner, a private attorney whom Wright calls consumer-oriented, David Perez, a deputy district attorney from Los Angeles, who missed many of the meetings, according to consumer spokesmen, and William Warren, a professor whom critics consider "pro-industry" because he had a hand in drafting UCCC. Despite his banking affiliation, consumer advocates accord Pownall pro-consumer status, perhaps because he, like Reed, refused to sign the commission's report when it offered SB 3 as the result of its deliberations.

In defense

Wright is quick to point out that there is nothing inherently improper with the credit industry being heavily represented on a commission charged with drafting a law that vitally affects it. "It is something the industry will have to live with for a long time," Wright explained. "We are interested in realistic consumer legislation, too, because we know we'll be better off in the long run. If we come up with a decent code now, we won't have to worry about somebody trying to jam something unreasonable down our throats later on."

In fact, Wright might have added, the uniform code that inspired SB 3 was drafted by a group well-populated with members whose interests begin, if not end, with the American financial community — namely, the National Conference of Commisioners of Uniform State Laws. The business community's interest in the national conference is more than nominal, according to testimony before a subcommittee of the House Banking Committee in 1969: the finance industry contributed more than $300,000 to the project that resulted in the model code.

The national conference, composed of delegates named by the Governors of the 50 states, has produced a number of model codes dealing with such legal areas as commercial, probate, and negotiable-instrument law, in hope of promoting uniformity among the states. Uniform laws are a great convenience to nationwide merchants and creditors, of course, and that is one of the lending industry's stakes in SB 3.

The national conference approved the UCCC in 1968, and it was endorsed a short time later by the American Bar Association. By 1971, Utah and Oklahoma had adopted the model code, and the national conference was predicting that more than 25 other states would consider the code that year. In the two years since then, however, only the states of Indiana, Idaho, Wyoming, Colorado, and Kansas have done so.

This apparent hesitancy toward accepting the model code can be explained by two reasons. One is that the national conference is redrafting its model code, and some states have decided to await the revised version. The second reason seems to be that the model code adapts less easily to the needs of populous, industrialized states than to rural states. "Rocky Mountain states are usually most receptive to model codes because they don't have such sophisticated laws as places like California, New York, and Massachusetts," explained John McCabe, legislative director for the national conference.

California's role

As a result of this slow going, California would likely be the first major state to adopt a version of the model code — if SB 3 becomes law (which is unlikely this year, in any case). While Wright calls the bill "a far different animal" from the code produced by the national conference, it nonetheless bears a close relationship to the UCCC in structure and theory. Indeed, Wright confirms that SB 3 and the UCCC encompass parallel philosophies — opening the credit market to greater competition. Both restructure the regulation of consumer credit to make the market more competitive and to give the consumer a greater number of credit sources. It also restricts certain creditor abuses, but (in the model code at least) that concern is secondary to establishing a free market. The UCCC's rationale, thus, is economic — that higher interest-rate ceilings, for example, benefit the consumer by increasing the supply of credit.

SB 3 evolves

It is with the UCCC and its economic theory that SB 3's evolution begins. It is probably through that identification that it inherits some of its present opposition, since the UCCC is attacked for failure to impose more stringent regulations on credit practices. The UCCC makes clear that it seeks a new approach to consumer protection and was not intended to be an amalgam of new regulations, but new regulations were what consumer advocates were seeking in 1965, when work began on the UCCC. "The results," said one consumer attorney, "were less than heartening." Much of that sentiment has carried into the preliminary debates on SB 3, although the California proposal's scope of regulatory power is far greater than that of the UCCC.

A version of what is now SB 3 was introduced into the Legislature last year, and when it was reintroduced

SB 3 cuts deep, but to whose benefit?

If it becomes law, the highly complicated and voluminous Senate Bill 3 will have a pervasive impact on consumer-credit transactions. It would repeal, while claiming to incorporate, the consumer protections of the following:

- Unruh Retail Installment Sales Act.
- Rees-Levering Automobile Sales Finance Act.
- Moscone Automobile Leasing Act.
- California Small Loan Law.

It also would repeal and recodify a number of other laws, among them:

- Consumer Credit Reporting Act,
- Song-Beverly Credit Card Act,
- 1971 Debt Collection Practices Law,
- Consumers Legal Remedies Act,
- Song-Beverly Consumer Warranty Act,
- Mobilehome Warranties Law,
- Dance Studio Contracts Law,
- Health Studios Contracts Law, and
- Repair, Alteration or Sale Deposits Law.

SB 3 would govern the practices employed by merchants in selling goods to the consumer, the interest rates the consumer must pay, and the rights he may claim in a dispute with a merchant or lender.

Opponents and proponents of SB 3 agree that its impact would be all-encompassing. They disagree, however, over whether that impact would be detrimental or beneficial to consumers.

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Utah's performance with model code brings mixed notices

California's proposed consumer-credit law and that enacted in Utah share the same bloodline: each is an offspring of the model Uniform Consumer Credit Code or UCCC.

The California proposal has been modified so extensively that many of its key provisions differ from those of the UCCC. But the structure and the theory of the proposed California code leave no doubt that it may claim kinship with the UCCC. Utah, the first state to adopt the UCCC, did so in verbatim form in 1969.

The consumer climate in California is vastly different from that of Utah. In comparison, California has relatively sophisticated consumer-protection laws. Utah, on the other hand, had little consumer legislation on the books until it adopted the UCCC. Nevertheless, because the California proposal and the Utah code are cousins, if not brothers, Utah's three years of experience with the UCCC are worth examining, and they have been in two studies at the University of Utah, one by the law college, the other by the business college.

Unkind words

The business college study dealt primarily with the effect of the code on interest rates and earnings in Utah. It concludes that, while the code permits higher interest ceilings, the rates remained relatively constant between 1969 and 1972. The law college study agreed with the business college report that interest rates had not been a problem under the code, but it had some less kind things to say about other aspects of consumer life under the UCCC. The study charged that Utah law "imposes substantial burdens on business, which in turn pass those burdens on to consumers" and that the code "gives the appearance of protection but not the substance." Among the study's conclusions:

Disclosure. The Utah code purports to require lenders to make more information available to borrowers, but the disclosure provisions "do not have great impact and . . . do little for the borrower."

Home Solicitations. The Utah code attempts to halt abuses by door-to-door salesmen, but the effect of the code on most sellers and consumers has been negligible. The code gives a wronged buyer the right to cancel his purchase, but "most consumers are unaware before, during and after the deal of their rights."

Referral Sales. The seller may not offer a buyer rebates or commisions for the names of other prospective purchasers. The reason for the restriction is that such schemes tend to deceive the buyer into thinking he can obtain goods for free when, in fact, it usually is difficult to do so. Many Utah firms have abandoned referral-sales approaches, but many others have ignored the code or found ways to avoid it.

Holder in Due Course. Under this doctrine, a creditor-buyer must continue to pay for defective goods because his loan has been sold by the merchant to a lender. The Utah code attempts to end this inequity, but its provisions are easily avoided by determined merchants and lenders.

Deficiency Judgments. Under the Utah law, certain buyers who have had their purchases repossessed may not later be sued for money by the creditor-seller. But the regulation does not protect consumers in most vehicle transactions and in many purchases of major appliances and furniture.

The essence of the Utah code is set out in its statement of purpose: "to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of credit, having due regard for the interests of legitimate and scrupulous creditors." The Utah code has failed to meet this goal, according to the law college's report. Many of the code's protections, it contends, "are illusory, either because they depend too much on consumer understanding, are easily circumvented, or have insufficient teeth."

There are, of course, those who take issue with that conclusion, notably William Wideman, Deputy Administrator of the Utah code. While Wideman concedes that his department has been considering changes in the code to "overcome many difficulties we have experienced in administration," he believes that the code has benefited the consumer far more than the lender. In more than three years, Wideman explained, his department has received only 323 consumer complaints against lenders and merchants. But that, responded a consumer advocate, is as valid a measure of the code's failure as it is of the code's success.

January 8th it carried a number of modifications, including what Wright said are about 40 new consumer protections. Among the most important of these, he asserted, are abolition of the practice of requiring a buyer-debtor to make payments on merchandise that is defective, prohibitions of creditors from collecting attorney's fees from debtors whom they successfully sue, and giving the courts discretion to decide when a contract is too unfair to be enforced.

Three hurdles

Aside from satisfying consumer and credit-industry interests, SB 3's proponents have had three major hurdles within the state government:

- The Department of Motor Vehicles opposed SB 3 out of concern that it dilutes the DMV's regulatory power; that opposition has been amended away.
- The Attorney General opposed the bill, but another round of amendments brought the qualified support of that office in May.
- Finally, the Commissioner of Corporations, Brian Van Camp, who will have prime responsibility for administering SB 3 if it becomes law, remains unhappy with the bill, and his opposition is pivotal at the moment.

Van Camp cited a number of shortcomings in the bill in testimony before the Senate Judiciary Committee last year. He was back last month, in a letter to Song, reiterating his opposition to the 1973 bill. A few days later, SB 3 was removed from active consideration in

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the Senate Judiciary Committee until some compromise can be reached.

Van Camp raised a number of technical objections to SB 3, and some resemble those lodged by consumer advocates. Technical objections can easily be amended away, of course, and Wright indicated a willingness to work with consumer groups. But Van Camp's objections on three broad issues may be more difficult to resolve. In his letter to Song, Van Camp wrote:

> I am convinced that the consumer is now adequately protected by existing California laws relating to consumer finance. Any legislation in this area should increase rather than decrease that protection. One of the objectives of the proponents of SB 3 has been to achieve uniformity among states . . . . SB 3 has been so greatly modified . . . , the argument for uniformity no longer obtains.
>
> It is my understanding the National Conference of Commissioners on Uniform State Laws has redrafted the UCCC . . . . Further consideration of SB 3 should be withheld pending a review by all of us of the upcoming redraft.

SB 3's proponents remain hopeful that Van Camp can be convinced that recent amendments to the measure do, indeed, increase consumer protection. There seems to be little reply to Van Camp's uniformity argument, but a concern for uniformity, or a lack of it, is not likely to be crucial to Van Camp. Finally, the national conference's revised model code will not be ready for several years, Wright said, adding: "That is just too long a wait."

Walking a tightrope

Supporters of SB 3 also have been walking a tightrope to secure a broader base of industry support without further alienating consumers. There was early opposition from banking interests, which claim to be satisfied with present consumer-credit law. Though the latest version of SB 3 grants banks a partial exemption from its provisions, they remain opposed. That mortgage brokers and the California Real Estate Association also oppose SB 3 doesn't surprise Wright. "SB 3 restricts late charges, balloon payments, prepayment penalties, insurance sales, and excessive commissions," he observed. "No wonder they are against it! I think this illustrates that we do have some good consumer protections in this bill."

But SB 3 does not have enough consumer protection for Richard Elbrecht, a former Assistant Director of the National Consumer Law Center at Boston College and now a private attorney in Santa Cruz. Elbrecht has no general quarrel with the credit industry's desire for a better organized law under which to run their businesses. "Creditors," he said, "need and deserve a clarified law, but I think SB 3 is too high a price to ask consumers to pay." Elbrecht contends that SB 3 "doesn't have enough teeth" and contains "many technical provisions which provide easy avenues of escape for creditors."

CRLA raises many of these same objections. It also charges that SB 3:

- Offers meager coverage of debt-collection practices (which Wright concedes but feels should be treated in a separate bill).
- Provides inadequate regulation of repossession practices (Wright disagrees).
- Contains insufficient regulation of contract terms (Wright says recent amendments remedy that).
- Retains certain sales-lending practices that SB 3 claims to abolish (Wright disagrees).
- Provides inadequate provisions covering unfair contract solicitation practices (Wright believes that recent amendments have resolved that problem, too).

Wright concedes that SB 3 is "no panacea", and realizes that it will not go far without the support of Corporations Commissioner Van Camp. That support will be won with amendments, he believes, and once Van Camp is behind it Wright thinks the bill has a good chance of clearing the Senate. He anticipates a tougher time in the Assembly, however, "because the consumer groups have more influence there."

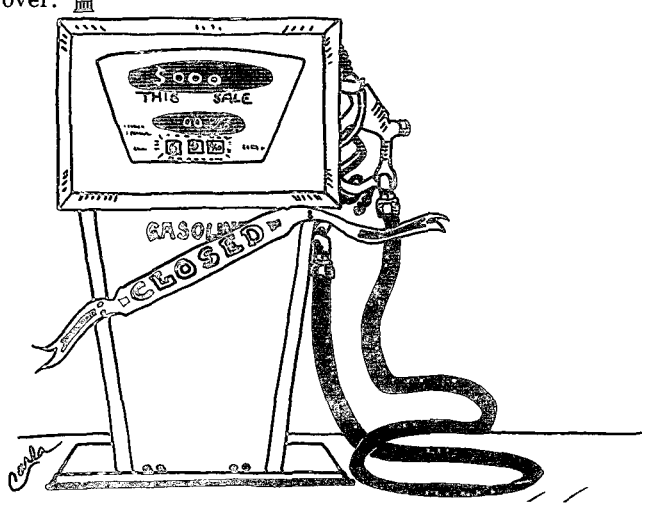
Wisconsin's code

As far as consumer advocates are concerned, there are three alternatives to SB 3, as it now stands:

- Even more amendments.
- A new proposal based on the eventual redraft of the UCCC.
- A new bill based on a model developed by the National Consumer Law Center, a version of which has been enacted in Wisconsin.

Wright is willing to consider consumer-proposed amendments for SB 3, but Elbrecht expressed doubts about that approach. "The structure of SB 3 is very creditor-oriented," he said. "It would not be impossible to amend SB 3 into good consumer legislation, but it would be very difficult." Since the redraft of the UCCC could be as much as five years away, Elbrecht favors basing any California code on the one he helped devise for Wisconsin, which went into effect this year. The Wisconsin code relies more on regulation than on the free-market concept used in the UCCC.

Wright admitted that the UCCC is not as broad in its protection as the Wisconsin law, but added that the present version of SB 3 also has substantially more regulatory muscle than the UCCC. "I think a lot of consumer spokesmen are opposed to SB 3 just because they feel that they should have been in on its creation," Wright said, "not because they really think it is a bad bill — just a matter of professional jealousy perhaps. It would be a waste of a lot of good work by a lot of good people if we scrapped everything now and started over."



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More questions than answers so far in 1974 statewide races

With the state primary election only 10 months away, it is still not clear who the contenders will be for the Republican gubernatorial nomination. A lot of questions need hard answers, among them:

- Will Governor Reagan be pushed against his preference into running for a third term for the sake of party solidarity?
- Will Lieutenant Governor Ed Reinecke recover from a rash of unfavorable publicity to carry the conservative banner?
- Will Attorney General Evelle Younger and Controller Houston Flournoy risk probable re-election in their present jobs to make the race?
- Will there be an entrant from among those who have been affiliated with the Reagan administration, such as former presidential counselor Robert Finch, former defense undersecretary David Packard, and Caspar W. Weinberger, Secretary of Health, Education and Welfare?

On the Democratic side, five prime contenders have been campaigning for as long as two years: Secretary of State Edmund G. Brown Jr., Mayor Joseph Alioto of San Francisco, Representative Jerome R. Waldie, Assembly Speaker Bob Moretti, and Senate Majority Leader George Moscone. There are those who think that one or two of the five will drop out. In addition, William Matson Roth, a San Francisco businessman and University of California Regent, is cruising the state in a camper van looking for a groundswell of support.

Reinecke's opportunity

Five years ago, Reinecke was an obscure Congressman from the San Fernando Valley. He was appointed Lieutenant Governor by Reagan after Finch resigned to join the Nixon cabinet. Reinecke was handed a golden opportunity to become Governor. Reagan had made it clear that he expected Reinecke to succeed him, and all the Lieutenant Governor had to do was avoid mistakes and make friends within the Republican Party. Now, his announced candidacy for Governor is in so much trouble that there is mounting talk that Reagan will seek a third term. The Governor, however, has consistently denied that he will run again. Some of Reinecke's problems:

- A staff aide, Hal Steward, resigned and publicly accused Reinecke with using virtually all personnel under his command for political purposes.
- Another top staffer, Morris Currey, resigned after he was accused of influence peddling. (Reinecke himself was not involved in the charge.)
- The Lieutenant Governor's credibility has been strained by apparent discrepancies in his statements about his role in the ITT controversy, regarding location of the 1972 Republican Party National Convention in San Diego.
- The Governor is talking about remaining neutral in the GOP primary. Reinecke could have expected an open endorsement from his 1970 running mate.
- In an effort to turn his campaign around, Reinecke hired Lyn Nofziger, former communications director for Reagan and official of the Republican National Committee. Nofziger's name soon cropped up twice during the Watergate investigation, once with regard to the White House "enemies list" and another time in connection with efforts to keep the American Independent Party off the ballot in California.

Gordon Luce, State Republican Chairman, claims that there is a "constant and continuing desire" among Republican workers to have the Governor seek a third term, even though Reagan campaigned seven years ago on a two-term-limit platform. The Governor's office reports that if mail is an indicator there is no grass roots demand for Reagan to run. Most of the Governor's political mail deals with his candidacy for President in 1976.

Cloud of uncertainty

But even the remote possibility that Reagan will run casts a cloud of uncertainty over the whole picture. If he runs, all the other potential candidates will be forced to sit on their hands, causing a ripple effect on all those seeking lesser statewide office, because there is still the chance that Reinecke, Flournoy, and Younger will seek re-election.

As matters now stand, only three incumbents appear ready to run for re-election next year — Republican state Treasurer Ivy Baker Priest, Superintendent of Public Instruction Wilson Riles (non-partisan office), and Democratic U. S. Senator Alan Cranston. Aside from those discussed above, here is a *California Journal* compilation of those who have announced their candidacies for statewide office, or have been mentioned as possible contenders:

Governor. Democrats Gregory Peck, actor, and James R. Mills, state Senate President pro Tem.

Senator. Republicans Pete Wilson, mayor of San Diego; Earl Brian, state Secretary of Health and Welfare, Finch, and Flournoy.

Lieutenant Governor. Republicans John G. Veneman, former undersecretary of health, education and welfare; Joe Blatchford, former Peace Corps director; James Flournoy, 1970 Republican nominee for Secretary of State; state Senator H. L. Richardson, and Assemblyman Floyd Wakefield. Democrats Bernice Slater, Sacramento radio reporter; Terry Goggin, congressional administrative assistant; Roger Boas, former San Francisco supervisor, and state Senator Mervyn Dymally.

Controller. Republican Assemblyman William T. Bagley, and Democrats Robert Mendelsohn, San Francisco Supervisor, and Assemblyman Charles Warren.

Attorney General. Republican state Senator John L. Harmer, and Democratic Assemblymen Warren and Walter Karabian, and Secretary of State Brown.

Treasurer. Democrat Milton Gordon, former state insurance commissioner, and unsuccessful 1970 nominee.

Secretary of State. Republicans Mike Montgomery, San Marino attorney; Brian Van Camp, state Corporations Commissioner, Assemblyman Paul Priolo, and John Schmitz, 1972 AIP presidential nominee. Democrats William Durley, Sacramento County Clerk; state Senator Alan Short, Karabian, and Assemblywoman March K. Fong.

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'YEARS OF SHOUT' ARE OVER?

Readers respond to article on Chicano politics

In May, we published an article by Juan Manuel Herrera, "'Years of Shout' Seem Over in Chicano Politics", which we described as "an insider's view," and on which we invited reader's comment. In his article, Herrera sought to chronicle the failure of separatism as a political tactic, and concluded that a new pragmatism has become evident among Mexican-Americans. "A growing conviction has surfaced in the movement," Herrera wrote, "that separatist thinking has to go. Participating in the system provides the training and experience needed to produce the clout we seek, but the ideological twists and turns in the movement have kept us from fully profiting by doing so."

Despite the strongly worded criticism of some of Herrera's explanation for this transformation submitted by Ralph C. Carmona, who describes himself as a member of La Raza Unida Party, we were impressed by what seems to us to be general agreement with Herrera's conclusion: "The years of shout, it seems, are passing us by, if as yet incompletely. The tactics out in the streets and the confused strategies of accepting and rejecting the political process have been found wanting. With it has come a frustration, a new tolerance, and a willingness to try change that works. That may mean putting away the joys and satisfactions of the movement's more colorful past, but those who were out just for the ride are already falling by the wayside. While others adopt fanaticism. Their bitter message of hate and exclusion, however, is not where the Chicano community is nurtured, and the future is not with them." Some reader commentary follows:

'El Movimiento . . . is moving from outside the system to within it'

Throughout the political history of this country, the major event-making changes which have taken place have been a result of issue-oriented social forces pressuring the political system; political movements whose impetus was derived from issues the political system either neglected or was unwilling to deal with. It has been the ability of the two-party system to accommodate these social forces that has sustained the vitality of America's political system.

Manuel Herrera fails dismally to discuss, or even grasp, this line of thought in analyzing the Chicano Movement, or *El Movimiento*. Furthermore, he fails to see the effect the movement has had on the two-party system, particularly the Democratic Party.

The emerging social force

Herrera's explanation of the motivation that sparked the Chicano movement in barrios throughout the southwest against the American political system — more Chicanos in higher education; an expanded civil rights movement; and the influence of poverty programs — though significant is *post hoc* reasoning, and has no logical foundation. The necessity of a Democratic administration to provide concessions to a growing *Democratic* black constituency being denied patronage at the local level was the prime consideration in the design of the "War on Poverty" during the early sixties. The War on Poverty expanded the Civil Rights Movement by providing ghetto blacks with the money necessary to pressure local governments for better housing, decent health care, better schools, and more jobs. Many of the "Great Society" programs [of the Johnson Administration] were looked upon as a "rip-off" for the simple reason that — regardless of the title —the implicit objective was not necessarily to alleviate poverty so much as to subsidize blacks for "maximum feasible participation" and "community action" against the local political establishment.

The Civil Rights Movement, *per se*, and not the War on Poverty, caused the few "successful" Chicanos to question the plight of their people who, as unwilling victims of prevailing opinion, were neglected and denied access to funds even though they had voted 90 per cent Democratic in the 1964 Presidential election. On September 14, 1965, Representative Edward R. Roybal publicly expressed this sentiment on the House floor. He warned of the "growing feeling of rejection" being felt by many Chicanos who "witness the establishment of crash programs for redevelopment . . . all oriented toward reform in the Negro riot areas," and observed, "Some are asking: 'Must we riot before we can get equal treatment?"

When *El Movimiento* ignited, millions of Americans suddenly became appalled at the economic, social, and political plight of this "invisible" minority. The enormous Chicano drop-out rate in California — over 50 per cent in many of the barrio high schools — the 19 per cent mortality rate in Vietnam (three times their national population of five per cent), a median income of under $5,000 for a family of six; inferior housing, high crime rate, high unemployment — all these long-standing conditions in the *barrio* had left *La Raza* fettered and bound to a bleak future.

Outside the system

The most flagrant injustice prevailed at the political level. In California, as recently as 1971, there were only two Chicano Assemblymen, just one Congressman, no state Senators, no top state officials, and only

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seven Spanish-surnames among the 700 Assembly and Senate staff members. And only 310 of 15,650 elective and appointive offices — 1.98 percent — were Chicano! The Mexican-American was being denied *any* voice in California's government and politics.

With no access to any effective avenues to air their grievances and problems, Chicanos were literally forced outside the formal institutions to the streets. Protest became their only political resource, or hope. Suddenly faced with the uncomfortably awkward task of explaining why the Democratic Party, which controlled the state Legislature and excluded Chicanos from its processes and was responding with subterfuge to Chicano cries for equal representation, organizations such as MAPA (Mexican-American Political Association), LULAC (League of United Latin American Citizens), CSO (Community Service Organization), and the G.I. Forum were caught in a paradox. These organizations, as well as the few elected politicians, found themselves labeled *vendido*, not because they had "sold-out" to the Democratic Party, or hadn't done anything for their people, but because they were part of a system that had so long neglected the needs of the Mexican-American.

Chicanos, bitter over their party's failure to begin dealing with the *barrio's* fundamental problems, found they either must do what blacks had done through the (Student Nonviolent Coordinating Committee) in 1964 against the racist-segregationist Mississippi Democratic Party — develop their own political structure, La Raza Unida Party — or else continue to stagnate in the backwaters of society.

The first victim of the new "Chicano" party came in the 1971 off-year election in the 48th Assembly District. At the beginning of his campaign, Richard Alatorre was ostracized by many Chicano leaders primarily because he seemed to represent *everything* that was, in the eyes of most Chicanos, clearly pro-establishment and anti-*barrio*. "To get power," Saul Alinsky once said, "you need to have either money or bodies. The poor have no money." Alatorre had over $100,000 for his campaign! Not only did he have more money than any previous Assembly candidate, but he had also lived only one year — just enough to qualify — in the district; and from Representative Roybal to MAPA to union leader J. J. Rodriguez, Alatorre was denied any *barrio* support in the primary. His lone endorsement came from attorney Herman Silas. a prominent Democrat and close friend. Although Alatorre felt just as strongly as any of the other Chicano candidates about the plight of his people, he was seen as a "puppet" in the eyes of established leaders of the community as well as the "separatists."

McGovern and the new Democrats

It is in the 1972 Presidential campaign that Herrera fails most obviously to give an accurate picture of *El Movimiento*. To clearly understand the Chicano role in the Presidential election, the situation of the Democratic Party must first be scrutinized.

Every attempt by the liberal segment of the party faithful was being made to bring in all elements of the party — blacks, the young, Chicanos, women — those in short, who had, since the disastrous 1968 convention, seriously questioned the Democratic Party as a "party of the people". The resounding success of McGovern in the primaries was due, in part, to major party reforms. Elements previously excluded that had never had a voice in the policy-making process of the Democratic Party, were for the first time provided an opportunity to participate in decision-making throughout the party's heirarchy. In meshing his grassroots forces with the "regulars" of the party, the conflicting motivation and goals quickly reduced McGovern's organization nationally. as well as locally, to one of intra-party conflict and divisiveness. Not only the Chicano but also the other prenomination forces within the McGovern campaign refused to be placated. The reason was simple: once again, they were being forced into the background by so-called party regulars whose bureaucratic and manipulative style of campaigning ran contrary to the participatory decision-making and activist thinking of the McGovern people. By July 1972, the regulars had co-opted the campaign, leaving the Chicano out in the cold.

The 'little' people

What is important is that the politically "little" people got McGovern nominated. At the outset of his presidential campaign, McGovern seldom worked with the party "establishment" — not because it was necessarily advantageous, but because the party regulars refused to see him as a serious candidate. In *barrios* throughout the southwest, as well as in California, it was the Muskies and the Humphreys who met with the few established Chicano politicians and party members (Assemblymen Alex P. Garcia and Peter R. Chacon going to Muskie; Sillas and Dr. Julian Nava to Humphrey).

Whom did McGovern meet? Brown Berets; Chicano Moratorium leaders; frustrated ex-convicts concerned about the community; and La Raza Unida Party members like myself, who, before McGovern, were *still* being ignored. His southwest coordinator, an ex-deacon and former high school adviser, was clearly not of the party establishment. The South Dakota Senator even went so far as to endorse a candidate in the controversial 48th Assembly off-year election — not Alatorre — who also lost.

Chicanos, seeing a chance to become an integral part of the party, understandably fought desperately within the McGovern organization against the incoming regulars for the right to continue to run the campaign as they had before the Democratic convention. Herrera's argument that they lacked "know-how" in fundraising, precinct operations, voter registration, or the intricacies of public relations is shallow and, worst of all, condescending. Chicanos, as well as the other "nonprofessional" elements who were never a part of the Democratic Party, must be given some credit for getting someone virtually unknown to the nation nominated as the party's presidential candidate.

Where is *El Movimiento* today? Certainly, the anti-establishment fervor has subsided. But the inference that most Chicanos are fed up with the movement's "faulty interpretation of the real world" is, at the very most, a capricious description of a few and not a generalization applicable to the majority of Chicanos in the movement.

If anything, the Chicano movement has changed very little. Rather, it is the Democratic Party that has changed by including a viable social force in its structure. Major steps have been taken to draw the alienated Chicano into the party. Reforming the party itself, employing more Chicanos, making the Chicano Democratic Caucus a functional part of the party, providing money for Chicano Democratic candidates — all these are fac-

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tors making the Chicano a recognized force *within* the party.

Although the Democratic Party is still far from meeting the vital needs of the Chicano and the animosity toward the party establishment, though muted, still exists, there has been a definitive shift within the party's structure. Consequently, *El Movimiento*, far from changing its base, is moving from outside the system to inside it. All present trends seem to indicate that the Chicano in the very near future will no longer be on the outside, but will be incorporated within the inner circles of the American political system, voicing his concerns and fighting to get other Chicanos into the Establishment — an establishment that, more than ever before, is beginning to reflect the concerns of the *real* world.

RALPH C. CARMONA
La Raza Unida Party Member,
Los Angeles

'Isolating ourselves will get us nothing . . .'

I think Juan Manuel Herrera put it very well indeed. I, too, feel that the only way the Chicano people will get things working in our favor is through solid unity *within* the Establishment. Isolating ourselves will get us nothing, except the usual stereotyping. Unite and work together for the betterment of our lives, and let us not ponder over the past. Let us look forward with pride and optimism that we will overcome . . . . We have to try and make our young people look ahead, beyond a high school education. It is with these people that our plight can be heard and finally listened to.

MARTHA FUENTES
Tulare

'The Chicano wants to be something new, an American Mexican'

It is doubtful whether in any nation a considerable portion of its people have ever been as concerned with the rights of minorities as have people in the U.S.A. True, it is an uphill battle — too many Americans either do not care or are downright opposed to giving justice to those who are different or new. But we fail to realize that the effort to recognize the new and the different is going the wrong way if it leads to the maintenance of the wrong differences, for then we will inevitably be faced with separation. Unfortunately, the struggle of our two major minority groups is too often seen as one and the same struggle for liberation. We must not forget that the black man wants to enter American society, as a black man to be sure, but as an American nonetheless; he is the only minority member whose presence here was not by his choice. The Chicano poses a quite different question: does he want to become an American? No other group of newcomers asked this question.

A new mythology

As one answer, we see the growth of a new mythology with a rewriting of history plus some inventing where needed. We hear of the ancient homeland of the Aztecs, Aztlan. We hear of the bortherhood between the Mexican and the Indian, of special Chicano rights under the Treaty of Hidalgo, and Spanish land grants.

The Mexican-American is a stranger in his own land. The Anglo-American is, and has always been, determined to eliminate the Mexican heritage. Strangely enough, the same people who call their political organization the party of their race, and who feel unity as The Race, call American society racist.

Mythologies are invented to make believers feel good, and for a time they do. But eventually the real problems emerge and the myths will not aid in finding solutions. The Mexican who came to the United States faces real and severe problems. All newcomers have faced discrimination because they were different, no matter the race. The real problem the Mexican faces in the United States today is connected with education, employment, and political participation. There are no ethnic solutions to these problems. Only if all Americans are included in the solutions can any particular group succeed. Yet, the voices one hears from the Chicano community seem to be unanimous in asking for solutions specially fitted to them . . . . Already one can hear voices that speak of a possible separate Chicano majority in California that feels itself distinct from the rest of the United States. The Chicano is the first immigrant to reject America. The Chicano wants to be something new, an American Mexican. This is not likely to succeed, for, despite the current fashion of denying it, the United States has been a great melting pot of cultures and people. There is now an American people. Yet what makes this country different from all others is the fact that it is possible to melt into this American people to a degree not found anywhere else. It would be impossible to become a German, a Japanese, or a Mexican with the same ease as one may become an American . . . .

In the area of education, the *La Raza* mythology, while encouraging wide participation by Chicanos, will do tremendous damage by the emphasis upon bilingual education and by trying to enlist every Chicano youth in courses that teach a rewritten and false history. The young have always been quick to adjust to new conditions. Every immigrant group faced and overcame the language and culture gap. The latest U.S. census shows us that there are still 30 million Americans whose mother language is not English. There is no instant acculturation, but too many Americans of Mexican heritage have made the entry into the mainstream of American life to believe that it cannot be done . . . . There is a certain irrationality in the demand to allow Chicanos the use of Spanish to the extent that the United States shall accommodate them in this. The appeal to an Indian past, the often-expressed hatred of the "Anglo" or "white" people and culture should make it irrelevant as to which of the European conquerors' language is being used.

The youngster of Mexican ancestry is entitled to the very best education in order to take his rightful place in our society, not because he is of a minority, or because of rights under a treaty or due to history, but because he is an American (or will be). His parents are entitled to the economic benefits this country has for its citizens. The Mexican who is now a citizen of this nation is entitled to all the political rights guaranteed to American citizens. If politicians in their quest for votes consider the Chicano a special or different kind of American, then we will have to face the dangers that come from acceptance of this idea by the Chicanos among us . . . .

HORST SENGER
Probation Officer and native of
Germany,
Sun Valley

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Legislature looks ready to apply open-meeting doctrine to itself

A lengthy legislative campaign to outlaw secrecy in all government proceedings is almost over. It began in 1953, when the Legislature adopted the Ralph M. Brown Act, imposing a new set of open-meeting requirements on local governments. Progress toward outlawing governmental secrecy was slow but steady with attempts to apply the requirements piecemeal to specific agencies. Then, in 1967, a comprehensive state act was passed, followed in 1970 by the Public Records Act and approval by the voters of a constitutional amendment applying the open-meeting standard to the Board of Regents of the University of California. This year, the last remaining government agency to avoid the antisecrecy standard — the Legislature itself — appears ready to celebrate the 20th anniversary of the Brown Act by applying the open-meeting requirements to its own proceedings.

The Legislature's inconsistency in requiring open meeting of other goverment agencies while excepting its own proceedings was first noted by Governor Earl Warren in signing the Brown Act in 1953:

> There isn't any reason at all why we should have a law for local government and then refuse to have the same thing for state government. I personally believe it would be a good thing to have such a law for all branches of government including the Legislature. Some of the worst things that have happened in government stem from secrecy. It should be avoided.

No action

This inconsistency failed, however, to stir any action within the Legislature until 1969, when Assemblyman William Ketchum, now a member of Congress, became angered by a decision by a Senate committee to kill one of his open-meeting bills — an action that Ketchum said took place at a secret meeting. The specifications of Ketchum's proposal were that meetings of both houses and their committees concerning bills, constitutional amendments, and resolutions would be open. (Meetings concerning personnel, internal house management and security, and conference committee meetings and political party caucuses were excepted.)

Though the impact of Ketchum's unsuccessful 1969 bill was negligible, its spirit was in keeping with a general reform movement in the Senate led by Senator Howard Way, which succeeded in removing Senator Hugh Burns as President Pro Tem. One of Way's more dramatic accomplishments in his brief term as presiding officer was to abolish the notoriously candestine Government Efficiency Committee — the very committee that had roused Ketchum's ire.

Despite the reform move, however, Ketchum's bill did not get out of the Assembly until 1970, when it was incorporated into the proposal of the Assembly's Speaker of the time, Bob Monagan, to create a two-year legislative session. This proposal was defeated by the Senate Rules Committee, an action that followed Way's exit as Senate Pro Tem.

The antisecrecy campaign gained momentum in 1972, when the Legislature abruptly ended the practice of allowing voice votes in committees. However, the battle to institute recorded roll-call votes overshadowed the fact that Ketchum had managed, meanwhile, to get his measure through the Assembly and to the Senate. After a stormy hearing in the Senate Rules Committee late in the 1972 session, his constitutional amendment to put requirements for open meetings in statutes was temporarily sent to the Senate floor on the questionable theory that it was meaningless without the accompanying bill, which was held in committee. The issue died when the amendment was sent back to committee.

Ketchum's departure for Congress this year did not slow the effort to gain passage of an open-meeting bill for the Legislature. Among those willing to take up the campaign were Assembly Rules Committee Chairman John Burton and Senator Donald Grunsky, both of whom had played significant roles in obtaining recorded committee votes. And even the Senate Rules Committee hinted at a change in attitude early this session by adopting the policy that all meetings of the house or any standing committee at which a vote was to be taken would be public. (The Senate Finance Committee tripped over the new procedure in June when passing on the budget bill in an executive session.)

As expected, the Assembly voted heavily in favor of the open-meeting bill — now authored by Burton. Not as expected, however, the Senate Rules Committee grudgingly conceded passage of a bill, and focused its attention on shaping it so the Senators could live with it.

Senate changes

As introduced in January, the Grunsky measure was the strongest open-meeting bill yet. It required all meetings of the Assembly and Senate, and those of all their committees, to be open and public. The only exceptions were executive sessions regarding personnel actions or political party caucuses. The Senate Rules Committee has since amended it to exempt meetings concerning appointments to committees, bill referrals, safety-and-security matters, administration-and-internal matters, certain matters regarding pending litigation involving members or employees of the Legislature, and also to continue the practice of secret conference-committee proceedings. (The actions of conference committees became an issue this year, after several legislators criticized the closed conference committee hearing on the budget.) Finally, Senate Rules voted unanimously to send Grunsky's amended measure to the Senate floor. Meanwhile, Burton's AB 39 remains in the Senate Rules Committee, now slightly stronger than the amended Grunsky bill, containing fewer exceptions and a strictly defined use of the term "meeting".

If adopted by the Senate, Grunsky's bill would presumably have little trouble in the Assembly, thus fulfilling Governor Warren's 20-year-old wish that all public agencies be subject to the same open-meeting requirements.

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FIELD POLL:

Car blamed for smog, but freeways are still wanted

By MERVIN D. FIELD

Californians are taking air pollution very seriously today, which is hardly new, but they are much more inclined than they used to be to point to the automobile as the chief source of this pollution, and that is new. Moreover, they also tend to blame auto-makers for doing less than they could to clear the air. On the other hand, they would support a number of suggested remedies for cutting down on vehicle-related pollution, (though restricting use of their cars is not one of them).

These are among the findings of a California Poll based on interviews with a representative statewide cross-section of 521 California adults.

The survey found that four out of five adults viewed the air-pollution problem with a relatively high degree of seriousness, especially in southern California. Only a small minority, 19 percent, considered it not serious. And, despite adoption of more controls and air-pollution abatement procedures throughout the state in recent years, half of the people surveyed felt the smog problem to be worsening, about the same proportion as four years ago. (There is evidence of some gain in the number who see some improvement: up from 6 percent four years ago to 16 percent today.)

Los Angeles reaction

Los Angeles County residents' views of air pollution have been measured periodically for years, which permits some interesting comparisons. For example, compared with 1957, Los Angeles residents remain approximately as convinced that the smog situation is about the same (36 percent in 1957, 30 percent today), and almost half feel that air pollution is getting worse (against 41 percent in 1957).

Smog and air pollution are a national problem today, of course, but widespread public attention was originally focused on the problem in the Los Angeles basin, where the condition first reached a critical point. Many other parts of the state are now also experiencing growing air-pollution problems. While 50 percent of southern Californians consider air pollution to be worsening (and another 30 percent think it about the same), this attitude today is shared with northern Californians, 47 percent of whom offered that judgment (and another 39 percent felt the situation to be about the same).

Role of cars

In earlier years, the public was somewhat less inclined to point the finger at automobile exhausts than at oil refineries and other industries as the chief source of air pollution. Today, however, a very large majority of the public — 83 percent (contrasted with 70 percent only four years ago) — agrees with what the experts have been saying for some time, that the chief villain is the millions of internal-combustion engines riding over California's vast road network. Aircraft, jets, and airports also get more mention today (12 percent against 6 percent four years ago) than they used to.

WHAT ARE THE MAIN CAUSES OF AIR POLLUTION?

	1973	1969	1957
Automobile exhausts	83%	70%	68%
Various industries	25	29	31
Various factories	20	24	22
Bus, truck exhausts, fumes	19	23	26
Oil refineries	7	9	20
Aircraft, jets, airports	12	6	1

HOW DO YOU FEEL ABOUT THE AIR POLLUTION PROBLEMS IN YOUR COMMUNITY?

	Statewide	South	North
Extremely serious	25%	32%	14%
Very serious	29	32	25
Somewhat serious	27	20	35
Not too serious	14	11	16
Not at all serious	5	3	6
No opinion/can't say	•	2	4

The Californians sampled were in a mood to accept drastic steps to reduce air pollution that did not include prohibiting them from driving their cars. Most indicated support of such measures as the installation of car anti-pollution devices, even if quite expensive, and the building of mass rapid-transit systems, even if these increased taxes. They were not inclined to support steps to reduce their driving or make it more difficult, including rationing gasoline, a drastic slowdown of freeway construction, or setting aside freeway lanes for exclusive use of high-speed buses.

Reducing pollution

Here is how those interviewed in the statewide California Poll reacted to various suggested ways of reducing air pollution:

- 62 percent agreed with the proposal: "To improve urban transportation start building a rail rapid transit system immediately. Might cost $100 per year per family in increased taxes." (31 percent disagreed.)
- 55 percent also favored this idea: "To cut down pollution, require every car and truck to install anti-pollution devices that might cost up to $300." (39 percent was opposed.)
- 76 percent rejected the idea: "To discourage excessive driving, close off certain freeways."
- By a ratio of 55 percent to 41 percent, the public disagreed with the idea: "To cut down pollution, ration gasoline to force people to cut down on the amount of driving they do."
- By a ratio of 56 percent to 39 percent, the respondents disagreed with this notion: "To discourage further growth in use of automobiles, slow down the freeway-building program drastically."
- By a narrower margin — 51 percent to 40 percent — the public rejected the idea: "To cut down automobile traffic on freeways, set aside certain lanes for exclusive use of high speed buses. Cost of buses financed by doubled or tripled gasoline taxes."

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INFLATION'S BITE IS BIG

Two million Californians still go to bed hungry

By WILLIAM LIPMAN

WASHINGTON — Higher food prices have been unwelcome guests at California tables for some months, and show no sign yet of ending their visit. Most California families have endured their presence with minor grumbling, but for more than 2 million persons, 11 percent of the state's population, these higher prices bring something other than annoyance — suffering.

In May, the U.S. Senate Select Committee on Nutrition and Human Needs published *Hunger — 1973*, a staff report "intended as a profile of the half-full, half-empty plate which federal food programs represent to the nation's poor". The report's reference points are the federally defined "Economy Food Plan" and 1970 Census data, together with more recent findings. The report indicates how many of the poor are served by either the Food Stamp or Commodity Distribution Programs (the law prevents assistance from both), analyzes program use on a county-by-county basis, and, most important, examines how well the Food Stamp Program meets its mandate to ". . . permit low-income households to purchase a *nutritionally adequate diet* through normal channels of trade."

California's standing

The evidence is unappetizing, but before turning to it, it is well to view California's hungry poor from a national perspective. Statistically, the state scores high. Eighty percent of California's 2 million persons officially certified as living in poverty are receiving food assistance, compared with 52 percent nationally. Of these 2 million, 412,000 receive no food assistance, compared with 674,000 in New York, 575,000 in Pennsylvania, 618,000 in Florida, and more than 1.3 million in Texas. Thirty California counties provide assistance to more than 60 percent of their poor, compared with a national county average of 17 percent.

Unfortunately, the reality behind these numbers is less heartening. The report dispassionately reveals just how bountiful a table may be set before those who must rely on either of the federal food assistance programs.

For the family of four so beloved by analysts, the Food Stamp Program currently offers less than $1 per person per day. On July 1st, the family reecived a raise, from $112 a month to $116. This was to enable them to buy a barely adequate diet, which actually costs — in terms of the governing Economy Food Plan — $127.10. Thus, the diet that the poor are supposed to follow costs 10 percent more than the allotment they receive. Since it is virtually impossible to buy a cheaper "adequate" diet than that provided by the plan, they have only one real choice: cut their already minimal diet by 10 percent.

Similarly, the elderly poor, who confront the same inflationary 10.7 percent rise (at the time the report was published) in food prices as more affluent supermarket customers, are expected to combat the price rise — and hunger — with $38 worth of food per month. Because of the Economy Food Plan's design, even under less inflationary conditions, persons living in high-cost area, such as San Francisco and Los Angeles, cannot afford to buy the nationally averaged foods on which the plan is based.

Insufficient nutritional value

The other available food-assistance option — the donated foods or Commodity Distribution Program — is no more seductive as a benefit. At its theoretical best, the program offers 53¢ per person per day; in practice, the average value of the foods distributed is only about $7 per month, or 23¢ per person per day. The report notes that "by the [U.S. Department of Agriculture's] own admission, the program yields only 54 percent of needed calories and between 50-80 percent of the nutrients required by the program's recipients." The inflationary price rise cited previously gravely threatens the viability of the Commodity Distribution Program, and has already undermined its scanty nutritional value. "As of the end of March, the USDA was unable to purchase dried milk, any dried fruit, pork, beef, turkey, luncheon meat, or cheese for the CD Program because the cost of the commodities exceeded their guidelines," the report found. Despite these shortcomings, the Commodity Distribution Program is the only food assistance offered the poor living in 18 California counties; for example, the program serves 57,000 people in San Diego County (which provides federal food assistance to only 43 percent of its eligible poor).

Several additional special-purpose federal food programs do exist, but they are limited in application (the school lunch program, for example), hedged by eligibility constraints, spotty in their coverage, and subject to the same inflationary and budget-squeezing pressures as the more basic assistance programs. Take as a whole, they cannot be said to mitigate greatly the nutritional problems faced by the poor.

As the select committee report concludes: "The hunger gap is far from closed, either for the country or for the individuals concerned." Close study of the report and related information suggests that 2 million Californians would not argue with that conclusion.

William Lipman is director of the Federal Office of the California Legislature in Washington, D.C.

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PEOPLE IN THE NEWS

The appointment July 11th of **Dr. Paul F. Romberg,** 51, to succeed Dr. S. I. Hayakawa as President of California State University, San Francisco, ended a search begun last fall when Hayakawa announced his intention to retire, but started a protest within the campus' faculty. The very next day, the Academic Senate voted 17 to 0 to ask Romberg to resign (he declined). In doing so, the faculty representatives said their protest does not necessarily involve Romberg's qualifications for the post, but the process the Board of Trustees used to select him. Three faculty members had sat on the panel named to produce several qualified candidates for the board's consideration. The panel did produce three finalists last May, but when their names appeared in the **San Francisco Examiner,** along with an evaluation of each candidate, all three withdrew their bids. The angered trustees blamed the faculty for violating the selection procedure by leaking the names to the press, a charge the faculty representatives deny. In any case, on the second round, the faculty contingent was apparently consulted only after another three finalists had been selected and then only to interview the contenders, which this time included Romberg, who is viewed as the personal choice of Chancellor Glenn Dumke, himself a former President of the San Francisco campus and not a favorite of some of the present faculty. "We just had the feeling the Chancellor was trying to ram Romberg down our throats," said one of the faculty representatives. As for Romberg, who has built a reputation as a fund-raiser, image-builder, and innovative administrator at the 2,500-student Bakersfield campus, he was enjoying a vacation on the Mendocino Coast. "I don't think the controversy is with the whole faculty," he said. "It's with those 17 members of the Academic Senate."

William B. Keene, a Los Angeles County Superior Court judge, became an ex officio Regent of the University of California on July 1st by virtue of his election as President of the Alumni Association of all nine campuses. Keene, President of the UCLA Alumni Association, replaced Bert L. Smith, who headed alumni on the Davis campus.

Blaming the bureaucracy at the state Department of Education, two of the top aides to Superintendent of Public Instruction Wilson Riles resigned last month. They are **Dr. Clarence L. Hall,** 46, Associate Superintendent in Charge of Instruction, and **Dr. David Evans,** 41, Assistant Superintendent in Charge of Program Planning and Development. Evans, who will become a vice president at McGraw-Hill Publishing Company after having served two years, said he had warned Riles that he "wasn't a bureaucrat." Hall wrote the state Board of Education that he was leaving because "those talents I possess can best serve California education outside the state-level bureaucracy." He accepted a one-year appointment as professor of education at Claremont Graduate School. He had served one year of a four-year contract. Both men disavowed any direct criticism of Riles.

Dr. James M. Stubblebine, director of the recently reorganized Department of Health, named **Donald E. Burkett,** 47, to head the department's Standards Evaluation and Research Program. An immediate assignment will be to evaluate state-supported programs to prevent and treat narcotics and drug abuse. Burkett was named chief of the investigations program of the Department of Health Care Services in 1969. During the department's merger into the new Department of Health, which became fully operational July 1st, Burkett became chief of its surveillance program to combat fraudulent claims.

Dr. Paul F. Lawrence, 61, was loaned by the U.S. Office of Education to work as assistant to Governor Reagan's education advisor, Dr. Alex C. Sherriffs. Lawrence is to serve as liaison between the Governor and the U.S. Department of Health, Education, and Welfare.

The state Department of Transportation includes within it as a division the former Department of Aeronautics (see **CJ,** March 1973, p. 83), and DOT's director, James Moe, last month named **William F. Shea** to head it. Shea, 44, was formerly commissioner for aviation in Broome County, New York, where he helped develop that state's aviation master plan — which is one of the chief responsibilities of his new job.

The Executive Director of the California Commission on Aging, **David E. Baxter,** was fired July 6th after declining to resign on a half hour's notice. William J. Kurtz, of the parent Health and Welfare Agency, who ordered the firing, called the move "routine". He said the Commission on Aging's eight members had voted unanimously to ask for Baxter's resignation. The commission's vice chairman, Dr. Thomas Kiddie of Los Angeles, while surprised at the method of firing, said the decision to do so, however, was not sudden.

Richard Ray, 44, became Deputy Director of the Department of Consumer Affairs on July 20th, succeeding **John Drobny,** who resigned. Ray had formerly been principal program analyst with the Department of Finance's budget division.

The Governor named **James R. Daley,** 29, to succeed **John Geoghegan** as Executive Director of the California Commission for Economic Development, whose role, Reagan said, "is to provide guidance and support to the overall economic development of the state." Daley, a Republican, was formerly Deputy Director of the Department of Commerce, now headed by Geoghagen. The salary is $22,584.

James E. McMahon retired as engineer in charge of the state's system of bridges after 42 years in state service. Major structures built during his 13 years in charge include the Vincent Thomas Bridge between San Pedro and Terminal Island, and the Benicia-Martinez Bridge over Carquinez Straits on Interstate 680.

Paul M. Li, named in June to head the new California Center for Judicial Education and Research (see People, **CJ,** June 1973, p. 249), picked two assistant directors last month, **Rudolf H. Michaels,** 56, and **Winslow O. Small,** 38. The center is to originate judicial education programs for California judges, prepare reference materials, and conduct research in judicial education. Its address is 2150 Shattuck Ave., Berkeley 94704.

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California Journal/*NEWSBRIEFS*

Consumer Affairs wins cabinet contest, keeps its healing arts boards

When Governor Reagan signed AB 423 (Bagley) just as the Legislature began its summer recess June 30th, he in effect made public the results of an interagency contest involving the 11 boards and commissions that license and regulate one or another of the "healing arts". These boards are in the Department of Consumer Affairs, but were scheduled to be transferred July 1st to the reorganized Department of Health under a plan approved in 1970. The Department of Consumer Affairs, which depends for its budget upon a percentage of the special funds that fuel its boards, vigorously opposed the transfer, which involved almost a third of the boards and commissions under its administration (see *CJ*, June-July 1972, p. 192). In doing so, the department had the support of virtually every medical group involved, which constituted a potent lobbying force.

Though Dr. Earl Brian, Secretary of the Department of Health's parent Health and Welfare Agency, supported the transfer of the boards to his control, he lost the vote in the Governor's cabinet — and, with it, any chance of veto. He did win a compromise, however. The transfer was not denied outright, but rather delayed for four years, until July 1, 1977. Nonetheless, hard feelings reportedly remain among some bureaucrats in the Department of Health, who may have been relishing the prospect of new executive jobs in a department that has lost some through consolidation.

Republicans win fourth straight special election; Alameda race is next

Republicans made it four in a row in 1973 special election victories July 10th, when Doug Carter, executive director of the San Joaquin Taxpayers Association, defeated Democratic Supervisor Carmen Perino, retaining the 12th Assembly District seat. Carter, 29, received 22,151 votes (51.1%) to Perino's 21,219 (48.9%) in a district in which Democrats hold a 56-38 percent registration advantage. He takes the seat of his former boss, Robert T. Monagan, who resigned to become an assistant secretary in the U.S. Department of Transportation. The win gives the Republicans 31 seats in the Assembly to the Democrats' 48, with one vacancy.

The remaining special legislative election to fill that vacancy will be August 7th in the 14th Assembly District of Alameda County. It is 63 percent Democratic and was represented by Democrat Robert W. Crown until his death last spring.

Democrats generally seem to fare less well in special elections than regular elections, because voter turnout is usually lower then, and in low-turnout elections Democrats seem more inclined to stay home than do Republicans. This tendency is being strengthened, ironically, by the Republicans' Watergate scandal, Democratic campaign workers suspect, because of a general skepticism about politics that it is generating.

1973 Special Election Box Score

District	Seat of	Primary Date	Results
22nd S.D.	Carrell (D) Died	Jan. 30th	Alan Robbins (D) won in runoff, Feb. 27th.
38th S.D.	Burgener (R) Elected to Congress	March 6th	Assem. John Stull (R) won in primary
38th A.D.	Porter (D) Died	May 1st	Robert McLennan (R) won in runoff May 29th
67th A.D.	Townsend (D) Died	May 29th	Paul Bannai (R) won in runoff
80th A.D.	Stull (R) Elected to Senate	May 29th	William Craven (R) won in runoff
12th A.D.	Monagan (R) Washington appointment	June 12th	Doug Carter (R) won in runoff
14th A.D.	Crown (D) Died	Aug. 7th	Runoff Sept. 4th
Statewide Tax Initiative		Nov. 6th	

Senate membership: 20 Republican, 20 Democratic
Assembly membership: 48 Democratic, 31 Republican

Republican admits giving secretly to P&F party candidates

Frank DeLong, an employee of the Asssembly's Republican Caucus, admitted last month that he had made secret payments in 1972 to candidates of the Peace and Freedom Party in an effort to split the Democrat vote in certain races. But in an interview with Doug Willis, a Capitol correspondent for Associated Press, DeLong called the payments "a reaction to our belief this was standard operating procedure of Democrats" who, he said, did the same thing for conservative candidates of the American Independent Party. "We figured we had been beaten in 1970 because it had been done to us," he said. He put the amount of money he handled at $800, and said it was paid by money orders bought with personal checks given to him by Jerry Simpson, the chief staff aide to the then Minority Leader in the Assembly, Robert T. Monagan. Simpson confirmed his encouragement to DeLong to aid Peace and Freedom Party candidates.

The revelation was followed on July 19th by Secretary of State Edmund G. Brown's order, based on information he said he had gathered, that the Republican Caucus and the Peace and Freedom Party candidates who received GOP aid correct their campaign reports to reflect the contributions. "The Republican payments to Peace and Freedom candidates should have been reported on campaign statements filed in my office," Brown said. "Since the payments were not disclosed, there were clear violations of state law." Brown said his information indicated that GOP funds were provided to Peace and Freedom candidates in "at least 13 separate races," often to provide the required fee to

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file as a candidate, and that it in no way linked the secret payments to either Monagan or to Republican Assembly Caucus Chairman John Stull.

Brown identified the 13 races as those in the 2nd Assembly District ($200-$300); 10th A.D. ($192); 29th A.D. ($192); 41st A.D. ($192); 46th A.D. ($192); 48th A.D. ($192); 60th A.D. ($192); 61st A.D. ($120); 63rd A.D. ($192); 27th Senate District (filing fee; 31st Senate District (filing fee); 29th Congressional District (possible payment of $425 filing fee); 30th Congressional District (possible payment of filing fee).

Carnegie study urges higher state tuition, more aid for the needy

The Carnegie Commission on Higher Education recommends in *Higher Education: Who Pays? Who Benefits? Who Should Pay?* that tuition to public colleges and universities be sharply raised for those who can afford to pay while more aid be provided those students who can't. Beyond the lower-division years, however, students would be expected to "depend somewhat more heavily upon loan financing" for their education. The commission also recommends that the "tuition gap" between public and private institutions be narrowed "through tuition adjustments", pointing out that society benefits as much from the graduate of a private institution as from the graduate of a public one.

The aim of its recommendations, the commission notes, is to improve access to higher education while assuring that economic costs are assessed "in some rough proportion" to benefits, which accrue both to society and to the individual. It cautions, however, that "tuition increases in the public sector must be accompanied by compensating increases in student aid and loan funds, or ground will be lost in assuring universal access . . . . States would do a disservice by adopting only the tuition-adjustment recommendation without ensuring that student-aid programs adequately met existing needs."

The commission's chairman, Dr. Clark Kerr, was President of the University of California in the 1950s and 1960s, when its tuition (and lack of it) was widely hailed. The fact that minority students at UC were disproportionately represented at that time would tend to support the commission's contention that "a policy of low tuition by itself does no good for a student who cannot afford to go to college even at low tuition."

The percentage of minority enrollment has risen drastically in recent years, however, with increased economic assistance to the economically needy and greater flexibility in admissions standards. According to a survey conducted at UC last fall and released last month coincidentally with the Carnegie report, only 8.7 percent of the student body came from minority groups in 1968, but the percentage had climbed to 20.7 percent last September. On the graduate level, 21 percent of the students were of minority background, compared to six percent in 1968.

PUC adopts tough, new rules to keep movers from underestimating

Over the objection of the California Moving and Storage Association, the California Public Utilities Commission adopted some of the strictest rules in the nation to prevent the practice of underestimating the cost of moving household goods. The new regulations will take effect in October, unless the association, which seeks a rehearing, is able to win a delay. The new rules limit a shipper on distance moves within the state to pay the carrier only the original estimate plus either 2.5 percent or $15 (whichever is greater), unless additional items have been moved. On moves up to 50 miles, the shipper can be held to no more than 10 percent over the estimate or $15, plus any charges for items added after the estimate.

The association's petition for rehearing claims that the PUC "acted arbitrarily, without evidence, and in excess of its jurisdiction." The commission explained its ruling by saying: "Underestimating can be used as a practice to secure business, for the reason that the shipper usually employs the carrier that furnishes the lowest estimate. Uninformed shippers believe the estimate to be a firm price . . . ."

The state Assembly asked the PUC last year to investigate reports of alleged deliberate underestimating, and to adopt rules by last March 15th. The commission complied by adopting interim regulations, which remain in effect.

The PUC also acted last month to approve a temporary $18 million rate increase for the Pacific Gas & Electric Company, effective July 31st, to compensate the utility company for the higher price it must pay for Canadian natural gas. (The increase amounts to about 13 cents a month on the average consumer's gas bill.) PG&E sought a $46.8 million increase, however, and the commission, in approving the interim increase, also granted the firm another chance to justify the higher amount.

Transit study questions feasibility of free rides on buses, trains

A report prepared by the Bay Area Metropolitan Transportation Commission concludes that free bus and train rides will not be feasible in the near future and may even be undesirable. It encouraged low-fare and no-fare experiments, however.

The concept of providing free public transportation has been argued for years on the basis that it would assure strong patronage and thereby improve operating effciency. But, the MTC study suggests, there may also be unwanted side effects, such as encouragement of urban sprawl by eliminating transportation costs as a factor in picking a place to live.

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Recent Supreme Court Actions

The following are significant decisions and actions announced by the California Supreme Court since June 1st:

Late-charge penalty ruled improper

The court's ruling that 5,000 borrowers paid excessive late charges to Coast and Southern Federal Savings and Loan Association is likely to have wide impact in California's lending industry.

In a unanimous decision authored by Chief Justice Donald Wright, the court held improper Coast and Southern's practice of assessing late charges at two per cent of the borrower's unpaid balance. Attorneys for the plaintiff's estimate that perhaps a third of the state's lending institutions use late-charge procedures similar to those of Coast and Southern's. The court, in turning aside rulings in cases decided in 1894 and 1896, said the two per cent late charge amounted to a penalty and was improper because it was not related to the actual loss or inconvenience suffered by the lender.

According to attorneys, the case against Coast and Southern developed when two of its borrowers became involved in divorce proceedings. The attorneys said they noted the two per cent late-charge provisions when preparing their clients' property settlements. Investigation revealed that Coast and Southern had thus collected $1.9 million from 5,000 borrowers between 1967 and 1971. The resulting suit charged that the procedure was inequitable because late-paying borrowers were being assessed penalties on portions of their loans that were not overdue.

In its decision, the court made clear, however, that a delinquent borrower cannot escape unscathed, but remains liable for the actual damages caused by the default. A lender may use any reasonable means to calculate the extent of those damages, it added.

Denial of faculty cost-of-living pay upheld

The court refused to review an appellate court ruling that the Legislature has the power to deny cost-of-living salary increases to University of California and State College faculty members.

In 1970, the UC Board of Regents had asked the Legislature to provide funds for a 7.2 percent salary increase for its faculty, and trustees of the California State Colleges sought a 7 percent increase for their faculty. The Governor's budget recommended a 5 percent increase for all state employees. However, the Legislature expressly excluded faculty personnel from the 1970 Budget Act.

Faculty members contended that they were denied raises as punishment for political and social unrest on the campuses. But the Court of Appeal, declining to question the motives of the Legislature, ruled that a refusal to increase the benefits of a class of employees does not constitute punishment. It also found that faculty members suffered no denial of equal protection when other state employees were granted raises. Because faculty members are a distinct class with special benefits, the appellate court said, it was proper for the Legislature to treat them differently when appropriating funds for pay increases. (*California State Employees Association* v. *Flournoy*)

San Francisco State arrests struck down

Ruling in two cases arising out of demonstrations at San Francisco State College in 1969, the court overturned the convictions of 12 persons charged with unlawful assembly and disturbing the peace.

More than 400 persons were arrested on the campus after they ignored orders by a college representative and a police officer to disperse from a noon rally described as noisy but generally orderly. In a five-to-one unsigned opinion, the court held that loud shouting and cheering can be prohibited as noise only if there is obvious danger of imminent violence or if the shouting and cheering are used to disrupt lawful activities. The court also ruled that the right to assemble cannot be restrained unless there is a justifiable and reasonable apprehension that the assembly poses a threat of violence. Finding no evidence of violence, the court concluded that the convictions were based on constitutionally protected conduct and must be overturned. Justice McComb dissented without comment. (*Brown and Bozorg on Habeas Corpus*)

Right to a local jury affirmed

In a four-to-three decision, the court ruled that a defendant in a criminal prosecution has a constitutional right to be tried by a jury drawn from a representative cross-section of the residents of the judicial district where the crime was committed. The decision, authored by Justice Sullivan, was concurred in by Chief Justice Wright and Justices Burke and Tobriner.

In May 1970, a Los Angeles County Superior Court ordered that, due to a shortage of judges and courtrooms, all crimes committed in a moderately white judicial district would be tried in a nearly all-white judicial district. The defendant was charged with selling marijuana in the moderately white district but was convicted by a jury selected from the nearly all-white district — a procedure that he claimed violated his right to trial by an impartial jury.

In reversing the conviction, the court said that, even if the judicial districts contained an identical pro-

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portion of blacks, the defendant would be entitled to a jury drawn from the district where the crime was committed. Justice Burke, joined by Justice McComb and pro tem Justice Wood, dissented. (*People* v. *Jones*)

Privacy rights protected

The court ruled that evidence obtained without a search warrant, by peeking into the window of a private home, cannot be used in a criminal trial. ". . . The prying policeman, clandestinely peering through a two-inch aperture between drawn blinds and windowsill, standing upon trespassed property over which the public has not been expressly or impliedly invited, portrays a sorry figure who violates his subject's right of privacy — a right protected by the California and United States Constitutions and precious to a free and open society," wrote Justice Tobriner.

The four-to-two ruling dealt with two men arrested after a policeman had peered through the window of the home of one of them and overheard a narcotics transaction being arranged. On entering, police found heroin. The court said the officer's observations would be allowed as evidence if he had made them from a place where he had a right to be.

Chief Justice Wright and Justices Mosk and Sullivan joined Tobriner in the decision. Justices Burke and McComb dissented. (*Lorenzana* v. *Superior Court*, and *Salas* v. *Superior Court*)

Emergency blood-alcohol tests upheld

The court refused to consider a Court of Appeal decision that a blood-alcohol test made on an unconscious person during an emergency does not violate constitutional protections against unreasonable search and seizure.

The case involved a driver, later charged with vehicular manslaughter and felony drunk-driving, whose auto struck the rear of a school bus, killing one child and injuring eight others. Knocked unconscious and seriously injured, but smelling of alcohol, the motorist was taken to a nearby hospital. The Highway Patrolman investigating the accident, kept busy at the scene for more than an hour, later went to the hospital and ordered the blood-alcohol test on the still-unconscious defendant.

The appellate court noted that a blood-alcohol test may be ordered without a search warrant and without consent during certain emergency situations. It found this to be such a situation. (*Carrington* v. *Superior Court*)

— Compiled by Dennis Campbell

It was said . . .

We never had a Hiram Johnson, who started your recall, referendum, and initiative procedures. Even though we had Teddy Roosevelt as Governor, who was a progressive leader just as Johnson was, he did not leave the heritage Johnson left for you. And we are the poorer for it. If we are going to have a democracy, the people have to have the power to get at their government.

. . . *by Daniel Haley, New York State Assemblyman, in an interview with Richard Rodda, McClatchy Newspapers Political Editor.*

The snafu that has existed in the reapportionment arena is understandable for, after all, the electorate did designate a Republican Governor and a Democratic majority in the Legislature at the same time, and such forced marriages are not known to produce reapportionment love children.

. . . *by Republican Assemblyman William T. Bagley, in testimony before the three "special masters" charged by the state Supreme Court with reapportioning state electoral districts.*

California has had a Brown out for the past six years, and it has been very bad for the state.

. . . *by ex-Governor Edmund G. Brown, in answering a reporter's question on the energy crisis of whether it would "hurt California to have a brownout".*

CALIFORNIA CALENDAR

Meetings of the following state boards, commissions, and councils are listed each month; if one of these is not listed, it can be assumed that it is not scheduled to meet this month. Boards, commissions, and councils to be included are: Board of Education; Board of Equalization; Board of Governors of the California Community Colleges; Board of Trustees of the California State University and Colleges; Consumer Advisory Council; Coordinating Council for Higher Education; Council on Criminal Justice; Highway Commission; Little Hoover Commission; Park and Recreation Commission; Regents of the University of California; and Social Welfare Board.

Aug. 16	**Consumer Advisory Council,** Department of Consumer Affairs, 1020 N St., Sacramento. 10 a.m.
Aug. 17	**Fish and Game Commission.** State Building, Room 1194, 455 Golden Gate Avenue, San Francisco. 9 a.m.
Aug. 20	**Board of Corrections.** 714 P Street, Sacramento. 10 a.m. Room not set.
Aug. 22-23	**Highway Commission.** Department of Transportation, 1120 N St., Sacramento, 1:30 p.m.
Sept. 11	**Commission on the Status of Women.** State Capitol, Sacramento. 9 a.m.
Sept. 13	**Board of Education.** Auditorium, Resources Building, 1416 Ninth St., Sacramento. 9 a.m.
	Commission on Peace Officer Standards and Training. Queen Mary, Long Beach. 10 a.m.
Sept. 14	**Parks and Recreation Commission.** Human Resources Building, Room 4160, 722 Capitol Avenue, Sacramento. 9 a.m.

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SENATE

June 21st to 29th

SB 73 (Gregorio) — Authorizes cities to enact an ordinance for the filling of vacancies on a city council by election. Passed 21-11.

SB 462 (Nejedly) — Requires cities and counties to prepare general plans covering their spheres of influence as well as for the land within their jurisdiction. Failed 16-18.

SB 90 (Dills) — Delays scheduled increase in state sales tax of from 5 to 6 cents a $1 from June 1, 1973, to July 1, 1974. Passed 25-6.

SB 570 (Dymally) — Equalizes the rights of husband and wife with respect to the administration of community property upon the death of either spouse. Passed 28-8.

SB 569 (Dymally) — Provides for the management and control of community property by both husband and wife, instead of only by husband, and equalizes the relationship between husband and wife with respect to community property. Passed 22-14.

SB 400 (Moscone) — Repeals the Winton Act and creates an Educational Employer-Employee Relations Commission to resolve disputes concerning the terms and conditions of employment for school employees. Provides for collective negotiations and binding grievance arbitration for all public school and college employees, including those of the University of California. Passed 21-17.

SB 700 (Marks)—Appropriates $24.6 million to continue summer-job programs for youths due to cutbacks in federal funds. Passed 28-8.

AB 110 (Brown) — Appropriates $9.4 billion to support state government in fiscal year 1973-74. Senate approves conference report (Assembly-Senate compromise), 34-6.

SB 195 (Zenovich-Harmer) — Reapportions Assembly, Senate, and congressional districts. Eliminates sixth district seat of Senator Alan Short, a Stockton Democrat who is retiring in 1974, and creates a new Mexican-American district in southern California. Attempted override of Governor's veto failed, 19-21.

SB 1046 (Roberti) — Makes it a felony to use any aborted product of human conception, other than the tissue specimens of fetal remains, for experimental research. Prohibits attempted human conception outside the womb for experimentation. Passed 28-1.

SB 32 (Dills) — Creates California Public Employee Relations Board to handle disputes between public employees and employers, and provides for collective negotiations between public employees and employers. Grants public employees the right of self-organization. Passed 21-14.

AB 542 (Knox) — Exempts California Pollution Control Financing Authority from property taxes, establishes it as a political subdivision of the state, and requires pollution-control projects to be financed in order of priority, as determined by the authority. Passed 27-10.

SB 425 (Stiern) — Delays scheduled sales-tax increase of 1 cent per $1

VOTING RECORDS

Listed below are the votes of Senators and Assemblymen on recent major roll calls in the Legislature and a brief summary of the issues under consideration. Votes selected for inclusion are issues of major importance to Californians as a whole or issues on which there was a major division of opinion, or both.

Y—Yes *—Absent or Not
N—No Voting

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriation bills.

Assembly: 41 votes required for passage of bills requiring majority vote. ⅔ = 54 votes.

Senate: 21 votes required for passage of bills requiring majority vote. ⅔ = 27 votes.

SENATE

Democrats 20	SB 73	SB 462	SB 90	SB 570	SB 569	SB 400	SB 700	AB 110	SB 195	SB 1046	SB 32	AB 542	SB 425
Alquist	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Beilenson	Y	Y	N	Y	Y	Y	Y	Y	Y	*	Y	Y	Y
Collier	*	*	Y	Y	N	N	*	Y	Y	Y	Y	Y	Y
Dills	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Dymally	Y	Y	*	Y	Y	Y	Y	Y	N	*	Y	Y	Y
Gregorio	Y	N	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
Holmdahl	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	Y
Kennick	Y	N	Y	Y	Y	Y	*	Y	Y	Y	Y	Y	Y
Mills	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Moscone	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
Petris	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Robbins	*	*	*	Y	Y	Y	Y	Y	Y	*	*	*	*
Roberti	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Rodda	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	*
Short	*	*	*	*	*	*	Y	Y	N	*	Y	Y	Y
Song	*	Y	*	Y	Y	Y	*	Y	Y	Y	Y	Y	*
Stiern	Y	Y	Y	Y	Y	Y	*	Y	Y	Y	Y	*	Y
Walsh	Y	*	Y	*	*	*	Y	Y	Y	Y	*	Y	Y
Wedworth	Y	*	*	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Zenovich	*	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y

Republicans 20	SB 73	SB 462	SB 90	SB 570	SB 569	SB 400	SB 700	AB 110	SB 195	SB 1046	SB 32	AB 542	SB 425
Behr	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	Y
Berryhill	N	N	*	Y	N	N	Y	Y	N	Y	N	N	Y
Biddle	N	N	Y	Y	N	N	Y	N	N	Y	N	Y	N
Bradley	Y	N	Y	N	N	N	N	N	Y	Y	N	N	N
Carpenter	Y	N	Y	N	N	N	N	Y	N	Y	Y	N	N
Coombs	*	N	Y	N	N	N	Y	Y	N	N	N	N	Y
Cusanovich	N	N	Y	Y	*	N	N	Y	N	*	N	N	Y
Deukmejian	N	N	*	N	N	N	Y	Y	N	*	N	Y	Y
Grunsky	N	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y
Harmer	Y	N	Y	N	N	N	N	Y	N	*	*	N	Y
Lagomarsino	N	N	Y	Y	N	N	Y	Y	N	*	Y	Y	Y
Marks	N	Y	*	Y	Y	Y	Y	Y	N	Y	N	Y	Y
Marler	Y	N	Y	Y	N	N	N	Y	N	*	*	Y	Y
Nejedly	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	*	Y
Richardson	N	N	Y	N	N	N	N	N	N	*	*	N	N
Schrade	N	N	Y	N	N	N	Y	Y	N	Y	N	Y	Y
Stevens	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Stull	*	*	Y	Y	N	N	N	Y	N	Y	N	N	Y
Way	*	N	*	*	*	N	N	N	Y	Y	N	Y	Y
Whetmore	N	N	Y	N	N	N	Y	Y	N	*	N	N	Y

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from July 1, 1973, to January 1, 1974. Provides a 100 percent personal income-tax credit for single and married persons whose income is under $4,000 and for heads of households and married persons filing joint returns whose income is under $8,000. Provides a 30 percent tax credit for all other taxpayers. Passed 33-4.

ASSEMBLY

June 21st to 29th

AB 684 (Moretti) — Permits the advertising of prescription drugs, and requires the retail price of the 100 prescription drugs most frequently sold by pharmacies to be posted in every pharmacy. Passed 41-31.

AB 255 (Fenton) — Extends unemployment insurance benefits to agricultural workers. Passed 54-10.

ASSEMBLY	AB 684	AB 255	AB 639	AB 2090	AB 664	AB 809	AB 1152	AB 110	SB 90	AB 1110	SB 425	AB 1528
Republicans												
Antonovich	N	N	N	N	N	N	N	N	N	Y	Y	
Arnett	N	*	N	N	*	N	N	Y	N	N	Y	
Badham	Y	N	N	N	*	N	N	Y	N	N	Y	*
Bagley	*	Y	Y	*	Y		Y	Y	N	Y	N	Y
Bannai												Y
Beverly	N	N	N	N	Y	Y	*	Y	N	Y	N	Y
Bond	N	*	Y	N	N	*	N	Y	N	Y	N	Y
Briggs	Y	Y	N	N	N	Y	Y	Y	Y	Y	Y	
Burke	N	N	N	N	N	N	N	Y	N	N	Y	
Chappie	N	Y	*	N	Y	Y	Y	N	N	Y	Y	
Cline	N	N	N	N	N	Y	N	Y	N	Y	N	
Collier	N	Y	N	N	N	Y	N	Y	N	N	Y	
Craven												
Duffy	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	
Hayden	Y	Y	Y	*	Y	Y	Y	N	N	Y	Y	
Johnson, R.	N	Y	Y	*	Y		Y	Y	N	N	Y	
Lancaster	N	N	N	N	N	N	N	Y	N	N	Y	
Lanterman	N	*	N	N	N	N	N	Y	N	N	Y	
Lewis	N	N	*	N	*	Y	Y	N	Y	N	Y	
MacGillivray	N	*	Y	N	Y	Y	Y	N	N	N	Y	
Maddy	N	Y	Y	Y	Y	Y	Y	Y	*	Y	Y	
McLennan	N	N	N	N	*	*	*	*	*	*	*	
Mobley	*	*	*	*	*	*	*	*	*	*	*	
Murphy	N	Y	N	N	N	Y	*	Y	N	Y	N	
Nimmo	N	N	N	N	N	*	N	Y	N	N	Y	
Priolo	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	
Russell	Y	*	N	N	N	Y	N	Y	Y	Y	Y	
Seeley	N	N	Y	N	N	*	Y	N	Y	N	Y	
Wakefield	N	*	*	*	N	N	N	N	N	Y	Y	
Wood	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	

AB 639 (Crown-Burton) — Provides that the state shall guarantee supplementary aid payments to recipients of aid to the aged, aid to the blind, and aid to the needy-disabled in amounts not less than aid received by recipients on December 31, 1973. Requires the state to make additional payments based on need to supplement federal supplemental security income program, which takes effect January 1, 1974. Passed 53-15.

AB 2090 (Kapiloff) — Authorizes a city or a county to require that residential dwelling units in process of construction include low- and moderate-income housing accomodations. Passed 42-27.

AB 664 (Chacon) — Increases from $6,000 to $7,550 the minimum salary for teachers with bachelor's degrees. Passed 45-18.

AB 809 (Deddeh) — Extends unemployment disability insurance benefits to employees who are pregnant or who suffer complications arising from pregnancy. Passed 61-7.

AB 1152 (Chacon) — Creates state Housing Finance Agency to authorize loans for the planning, development, and management of housing projects and low- and moderate-income housing programs. Appropriates $300,000 to administer the agency. Passed 56-12.

AB 110 (Brown) — See description under Senate votes. Assembly adopts conference report (Senate-Assembly compromise), 69-3.

SB 90 (Dills) — Delays scheduled sales-tax increase of 1 cent per $1 from June 1, 1973, to July 1, 1974. Passed 48-24.

AB 1110 (Sieroty) — Provides that a filing fee for elective office shall be deemed paid if the county clerk finds that candidate does not have the ability to pay all or part of the required fee. Passed 55-17.

SB 425 (Stiern) — See description under Senate votes. Passed 65-8.

AB 1528 (Murphy) — Establishes a procedure for serving a summons by registered or certified mail. Passed 41-31.

	AB 684	AB 255	AB 639	AB 2090	AB 664	AB 809	AB 1152	AB 110	SB 90	AB 1110	SB 425	AB 1528
Democrats												
Alatorre	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Bee	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Berman	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Boatwright	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Brown	Y	Y	Y	*	Y	*	Y	Y	Y	Y	Y	Y
Burton	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Chacon	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Cory	*	Y	Y	Y	Y	Y	*	Y	Y	*	Y	Y
Cullen	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	N
Davis	N	*	*	N	Y	Y	*	Y	Y	N	Y	Y
Deddeh	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Dixon	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Dunlap	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Fenton	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fong	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Foran	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Garcia	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Gonsalves	N	Y	Y	Y	*	*	Y	Y	Y	Y	Y	Y
Gonzales	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Greene, B.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Greene, L.	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Holoman	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Ingalls	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Johnson, H.	Y	Y	Y	*	*	Y	Y	Y	Y	Y	Y	N
Kapiloff	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Karabian	N	*	*	*	*	*	*	*	*	*	Y	N
Keene	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	N
Keysor	Y	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y
Knox	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MacDonald	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
McAlister	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N
McCarthy	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Meade	Y	*	*	*	Y	Y	Y	Y	Y	Y	Y	N
Miller	Y	*	Y	*	Y	Y	Y	Y	Y	Y	Y	N
Montoya	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Moretti	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Papan	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Powers	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Quimby	N	*	*	*	Y	Y	Y	Y	Y	*	*	*
Ralph	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Sieroty	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Thomas	N	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	N
Thurman	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Vasconcellos	Y	Y	Y	*	Y	Y	Y	Y	Y	*	Y	Y
Warren	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Waxman	*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Wilson	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Z'berg	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

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Selected State Government Reports

EDUCATION

Students in Campus Governance: Reasoning and Models for Student Involvement; by Edward St. John and Mary Regan; released by the Department of Applied Behavorial Sciences, University of California, Davis 95616. 1973. A study of student involvement in the sharing of campus responsibility and decision-making. 65 p. including appendix.

EMPLOYMENT

Safety and Rehabilitation; Governor's program, managed by State Fund, Suite 502, 520 Capitol Mall, Sacramento 95814. Statistical report for the first quarter of 1973 of workdays lost in various departments, with projected goals through 1975. 35 p.

ENVIRONMENT

An Introduction to the Energy Resources of California; by D. E. Ritzius and R. V. Rothermel, California Division of Oil and Gas, 1416 9th St., Sacramento 95814. 1973. 68 p., illus., maps.

FINANCE

Preliminary Annual Report for Fiscal Year Ended June 30, 1973; by Houston I. Flournoy, State Controller, 1114 State Capitol, Sacramento 95814. In addition to the General Fund, school building aid, and general bonded debt, the Controller also reports on the source and disposition of motor-vehicle revenues during the period. 14 p.

Tax and Expenditure Limitation by Constitutional Amendment: Four Perspectives on the California Initiative; by the Institute of Governmental Studies, University of California, Berkeley. A symposium presenting the view of four Berkeley faculty members concerning the proposed measure, including a rebuttal by one author of the critical views of the others. 1973. ($2.50) 70 p.

HEALTH AND WELFARE

Statistical Report on Specialized Child-Protective Services, for the quarter January-March 1972; Program Information Series Report 1973-1; by Health and Welfare Agency, State Department of Social Welfare, 734 P St., Sacramento 95814. Summary of referrals and services in the program in California based on reports of county welfare departments. (Free) 125 p.

1972 Health Facilities, Malpractice Actions, A Report to the California Legislature; by Health and Welfare Agency, 744 P St., Sacramento 95814. A statistical summary of 1972 malpractice actions amounting to damages of $3,000 or more, with a separate section of revised 1971 malpractice actions. 54 p.

Healthnews, official newspaper of the newly reorganized Department of Health, California Health and Welfare Agency; replaces four previous bulletins: **Liaison, 1-10, Comprehensive Health Planning Reporter,** and **Family Planning Bulletin.** A monthly report for health professionals and those concerned with health issues in California. First issue July 1973. 12 p.

LEGISLATURE

The Legislative Process in California; by Joel M. Fisher, Charles M. Price, and Charles G. Bell. Published by American Political Science Association, 1527 New Hampshire Ave., N.W., Washington, D.C. 1973. A manual to orient and educate freshmen state legislators in the functions of the California Legislature. 124 p.

MISCELLANEOUS

Transcript of Public Hearing on the Status of Women in 1973 (set of three transcripts); released by the Commission on the Status of Women. Hearings to update information as a basis for future projects of the commission were held November 29, 1972, in Sacramento (296 p.), December 8-9, 1972, in San Francisco (343 p.), and February 9-10, 1973, in Los Angeles (493 p.). Available free from the commission, 1025 P St., Room 340, Sacramento 95814.

NOTE: Unless otherwise indicated, reports may be obtained by writing the publisher, state agency, or legislative committee at the address given. Prices are listed when available.

CANNON *(Continued from page 291)*

prizes loyalty as the greatest virtue is fond of Ziegler, whose personal devotion to Nixon has combined with a willingness to attack those few newspapers and magazines presumptuous enough to investigate and expose the scandal of Watergate. While there is not a shred of evidence to indicate that Ziegler knew anything about the White House role in Watergate, his willingness to believe Haldeman and Ehrlichman and John Dean fit perfectly with the President's own conception of press-secretary-as-conduit. Ziegler has apologized to the two *Washington Post* reporters he maligned, but he has never expressed any regret at his own suspension of disbelief in the wake of mounting evidence that the White House was heavily implicated in Watergate.

"Ziegler is the President's man," observes a well-informed White House official. "He's not a go-between between the press and the President. He's the President's man, front and center. He's the ambassador of the President to the press, not the other way around."

And Ziegler will stay, at least for the foreseeable future. He will stay because, as White House Special Counsel Patrick J. Buchanan put it, "of an absence of culpability on Ron's part for any of the Watergate matters, and because of a long-standing tradition of the President to stand by associates who are under fire and not throw them to the wolves."

Yes, Ziegler will stay, and properly so. He is symbolic of what Richard Nixon expects from a press secretary.

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LETTER FROM WASHINGTON
By Lou Cannon

The President's man, ambassador to the press

He is the ranking Californian surviving at the White House now, next only to the President himself, although no one ever thinks of him that way. Gone are Bob Haldeman, Bob Finch, and Herb Klein. Gone, too, are such adoptive Californians as John Ehrlichman and Jeb Magruder. Ronald Louis Ziegler remains, and with the added title of "assistant to the President" to grace his role as press secretary. The extra title is merited, for Ziegler has long enjoyed the full trust and confidence of the President. It is precisely on this point that Ziegler's credibility has foundered, since it has long seemed to White House reporters that anyone so trusted must Know Something. There is, unfortunately, little evidentiary support for this contention in the texts of the daily White House briefings.

Ziegler is bright, nimble, normally cheerful, and substantially possessed of the Nixonian capacity for difficult and self-effacing work. Nevertheless, he is a troubled man these days, and his personal unhappiness is symbolic of the administration he has come to epitomize. He gives no on-the-record interviews lest he be drawn into a discussion of his own unpopularity. Many White House correspondents, including several who habitually refrain from expressing their personal views for publication have permitted themselves to be quoted as saying flatly that Ziegler should resign. Melvin R. Laird, the President's principal domestic adviser, has said that it would be better for the administration if Ziegler would step down as press secretary. Nevertheless, the President has made it more than usually perfectly clear: Ziegler will stay.

* * *

Ziegler, now 34, rose a long way in a short time to his present eminence. Once a star high school athlete at Covington, Ky., Ziegler completed his college education at the University of Southern California, where he earned expense money as a Disneyland tour guide. He is sensitive on this point, considering it irrelevant to his future accomplishments since, but Ziegler still remembers the spiel he gave on the Jungleland Cruise: "Welcome aboard, folks. My name is Ron and I'll be your skipper down the rivers of adventure. As we pull away from the dock, please turn around and take a good look. You may never see it again . . . . Note the alligators. Please keep your hands inside the boat. They're always looking for a 'handout' . . . . On the left, see the natives on the bank. Please be quiet. The natives have only one aim in life — and that is to get 'ahead'."

After USC, Ziegler became a flack for the Republican State Central Committee, and then worked in the 1962 Nixon gubernatorial campaign under Herb Klein. While participating in that ill-fated effort, Ziegler came to know Haldeman, who managed the Los Angeles office of the J. Walter Thompson advertising agency. With Haldeman's sponsorship and his own hard work, Ziegler became an account executive in 1964. A principal account was Disneyland.

When Ziegler came to the White House with President-elect Nixon in 1969, it was widely assumed that Klein would be the administration's top spokesman. It didn't work out that way, though. Klein, who was convinced that the President must tell his own story to newspaper publishers and editors outside of Washington, succeeded for a time in earning the President a reputation of accessibility in the country that he never enjoyed in Washington, but the inaccessible, Washington Nixon was the real one. Despite repeated assurances of administration openness and accessibility by Klein, the President held only 31 press conferences in 4½ years, compared to 193 for President Eisenhower, 65 for President Kennedy, and 158 for President Johnson. Ziegler, therefore, had to be much more a spokesman for the President to the press than the President was for himself, and he proved more representative in this capacity than Klein, despite the latter's two decades of personal association with Nixon. In Washington, Klein behaved like the traditional press secretary who saw it as his mission to make the best case for his boss and, sometimes, to "snow" reporters. But he was helpful and responsive to questions and, in the words of one of the country's most prominent liberal editors, "He never told me a lie."

The Ziegler press office did not so much try to manipulate the press as to ignore it. Ziegler operated under the theory of what might be called Minimum Feasible Information, a doctrine that perfectly captured the President's misunderstanding of the role of the media. Here, early on, is an exchange between Ziegler and reporters after well-documented accounts that the President was personally angered by the Senate rejection late in 1967 of Supreme Court nominee Clement Haynsworth:

Q. — Are you saying he hasn't been angered or upset in recent weeks?
A. — Yes
Q. — Nothing has upset or angered him?
A. — I haven't seen him angered or upset at all.
Q. — For how long a time?
A. — For quiet a while, since January 20 (inauguration day).

More than Klein, more perhaps than any other White House staffer except Haldeman, Ziegler shared the Nixonian view that the press was out to get the President. "There has historically been a built-in animosity among many members of the national press corps to the man, Richard Nixon," Ziegler has said. This is a more dangerous view than the conventional belief that the Washington press corps has a liberal bias. One can, after all, take steps to counteract and expose ideological bias. If, on the other hand, the bias is seen as a kind of conspiratorial vendetta against a particular individual, the withholding of information and the disregard of normal canons of accessibility seems entirely justified to those withholding both the information and the access.

It is not difficult to understand why a President who

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He who slings mud generally loses ground.

-- Adlai Stevenson

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